**IN THE CIRCUIT COURT OF WILLIAMSON COUNTY, TENNESSEE
FOR THE TWENTY-FIRST JUDICIAL DISTRICT**

STATE OF TENNESSEE, *ex rel.* JONATHAN SKRMETTI, ATTORNEY GENERAL and REPORTER *Plaintiff*, vs. BLACKROCK, INC., *Defendant.*	JURY TRIAL DEMANDED CASE NO. ____________

CIVIL ENFORCEMENT COMPLAINT

1. As one of the world's largest investment-management firms, defendant BlackRock, Inc. has been at the forefront of using aggressive strategies to push controversial Environmental, Social, and Governance ("ESG") goals across the assets it manages. BlackRock marketed many of its funds as devoid of ESG considerations and has admitted that ESG aims—in particular, radically reducing portfolio companies' carbon output—"do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund." Regardless, BlackRock committed to global organizations that it would pursue these aims across all assets under management. And it did. For years, however, BlackRock has misled consumers about the scope and effects of its widespread ESG activity. BlackRock's conduct concerning the marketing or sale of its investment products and services constitutes deceptive acts and practices under the Tennessee Consumer Protection Act ("TCPA"), including Tenn. Code Ann. § 47-18-104(a) and (b)(27). The State of Tennessee, by and through its Attorney General and Reporter Jonathan Skrmetti (the "State"), now brings this civil law enforcement proceeding to stop BlackRock's rampant ESG evasion and protect consumers.

1. INTRODUCTION

2. BlackRock is the world's largest investment management firm, with a staggering $8.6 trillion of assets under management ("AUM") as of December 31, 2022. Its holdings are more than the gross domestic product of nearly every country in the world except for the United States and China. It employs approximately 19,800 employees in more than 30 countries and serves clients in over 100 countries across the globe.[1]

3. BlackRock offers a wide range of investment products to individual consumers who engage in retail investing, as well as large institutional investors like endowments, foundations, and corporate and government pensions.[2] BlackRock states that its consumer base includes individuals and families, financial advisors, educational and nonprofit organizations, pension plans, insurance companies, and governments. It claims to serve more than 35 million Americans, including over 190,000 financial advisors who help build their own clients' portfolios.

4. Among its investment activities, BlackRock funds hold shares in portfolio companies on behalf of BlackRock's clients. These substantial holdings allow BlackRock to exercise its voting and engagement power to push companies to adopt BlackRock's preferred strategic policies and direction.

5. As a leading investment firm, BlackRock has been at the center of the rise in ESG-focused investing—*i.e.*, investing with a focus on achieving or signaling certain environmental, social, and governance goals and priorities. At a high level, ESG often aims to promote progressive policies, particularly when it comes to climate- and carbon-related issues.

6. Given its large size and prominence, BlackRock has led the charge in promoting aggressive ESG goals. Most relevant here, BlackRock's ESG activity has involved committing to

---

[1] BlackRock 2022 10-K at 1, https://perma.cc/2TMB-P4MJ.
[2] *Id.*

fight climate change. In 2020 and 2021, BlackRock joined activist organizations Climate Action 100+ ("CA100+") and the Net Zero Asset Managers Initiative ("NZAM"), thereby committing to use the weight of all AUM to push ESG objectives on the companies in which its funds own shares.

7. BlackRock's engagement as a shareholder and key voting actions likewise have centered on climate-change considerations, with "climate and natural capital" constituting BlackRock's number one shareholder engagement factor in 2020-2021.[3]

8. Top BlackRock leaders have acknowledged the company's focus on driving ESG-related investment strategies. In an article entitled "The Significance of ESG Engagement," BlackRock Managing Director Michelle Edkins identified a purported need for "conscious decisions" regarding how ESG "engagement" fits into the company's "investment strategy," which Edkins noted can help avoid "disengaged shareholders enabling companies' poor management of ESG matters."[4] BlackRock CEO Larry Fink, for his part, has stated that BlackRock is asking the companies in which it holds investments to set greenhouse-gas-reduction targets, which BlackRock will police through voting and engagement. These and other ESG aims reflect a core belief held by BlackRock's leadership that every company must "serve a social purpose" and "show how it makes a positive contribution to society"—not just "deliver financial performance."[5]

9. BlackRock and other firms' push towards ESG-focused investing has drawn increasing "backlash" from regulators, policymakers, and the public.[6]

---

[3] BlackRock, *Pursuing Long-Term Value for Our Clients* 8 (2021), https://perma.cc/K6UE-D8DR. Where possible, this Complaint uses perma.cc links, which preserve static copies of internet pages.

[4] Michelle Edkins, *The Significance of ESG Investment* 4, Engagement Strategies (2015), https://perma.cc/SYZ6-W8LM.

[5] Larry Fink, *A Sense of Purpose*, Harvard Law School Forum on Corporate Governance (Jan. 17, 2018), https://perma.cc/6ABP-FQAY.

[6] Ed. Board, *The ESG Investing Backlash Arrives*, Wall St. J. (Aug. 15, 2022), https://www.wsj.com/articles/the-esg-backlash-arrives-blackrock-mark-brnovich-strive-asset-management-attorneys-general-11660600459; *see also, e.g.*, Letter from 19 Attorneys General to BlackRock CEO Laurence D. Fink, https://perma.cc/25PA-EVZQ.

10. The ESG debate came to a head in June 2023 when CEO Larry Fink declared he was discontinuing the use of the term "ESG."[7] Fink further stated he was "ashamed" to take part in what he deems an overly politicized debate on the issue.

11. The shifting public and political dynamics around ESG have left BlackRock in a bind. On one hand, BlackRock's success and growth depend on retaining and growing its AUM. This, in turn, requires appealing to a broad base of customers,[8] many of whom do not want their funds or investment managers engaged in ESG-related activities. Coming clean to consumers about the extent to which ESG commitments permeate its investment and engagement strategies would thus risk BlackRock's business success.

12. On the other hand, BlackRock remains a member of organizations like CA100+ or NZAM, which demand sweeping ESG commitments. Other similar companies—like Vanguard—have withdrawn from these groups to provide "clarity" to investors regarding their position on climate-change risks.[9] BlackRock's continued membership requires BlackRock's ongoing commitment to pushing aggressive carbon-reduction strategies across *all* assets under management. Pulling back from its previous promises to ESG groups risks drawing unwanted negative attention and loss of business from the powerful investors, media members, and politicians who have demanded that firms prioritize ESG considerations.

13. Rather than risk either downside, BlackRock has chosen a third way: deceiving consumers about the company's extensive commitment to fulfilling ESG aims.

---

[7] John Frank, *Larry Fink "Ashamed" to Be Part of ESG Political Debate*, Axios (June 25, 2023), https://www.axios.com/2023/06/26/larry-fink-ashamed-esg-weaponized-desantis.
[8] BlackRock 2022 10-K at 11, https://perma.cc/2TMB-P4MJ.
[9] Vanguard, *An Update on Vanguard's Engagement with the Net Zero Asset Managers Initiative (NZAM)*, https://perma.cc/8HYV-5EYZ.

14. As relevant here, BlackRock's pattern of deception has played out primarily in two areas.

15. ***First,*** BlackRock has falsely conveyed that certain of its funds do not incorporate ESG considerations. A cross-cutting example arises in BlackRock's disclosures about its non-ESG funds. According to Blackrock, such funds "***do[] not seek to follow a sustainable, impact, or ESG investment strategy***." *See infra* paragraph 81 (emphasis in original). Indeed, BlackRock's statements about its non-ESG funds go even further, representing that there is also "***no indication***" that such funds will adopt an ESG-based investment strategy. *Id.* (emphasis added). BlackRock also says that it does not "dictate to companies what specific emission targets they should meet." *See infra* paragraph 139. On October 18, 2023, CEO Fink reiterated in an interview: "Everything we do is on behalf of our clients, and everything we do is with the purpose of financial returns. There is not one thing we have ever done, whether it's ESG or any other issue, is [sic] in the pursuit of financial return. That is our fiduciary responsibility, and we live that every day."[10]

16. But BlackRock's policies and voting records show that ESG considerations in fact drive portions of its investment strategy—including for non-ESG-funds. As mentioned, BlackRock has chosen to maintain ties with climate-activist organizations like NZAM and CA100+. As part of its NZAM membership, for instance, BlackRock has pledged to "comprehensively implement[]" a "stewardship and engagement strategy, with a clear escalation and voting policy, that is ***consistent with [the] ambition for all assets under management to achieve net zero emissions***"—*i.e.*, a policy of generating no net carbon emissions—"by 2050 or sooner."[11] BlackRock may point to its various recent disclosures where it purports to exercise independence

[10] Free Expression Podcast, *Larry Fink on ESG, the Economy and the State of Democracy* at 10:25 (Oct. 18, 2023), https://perma.cc/KBF3-C6GE.
[11] The Net Zero Asset Managers Initiative, *Commitment*, https://perma.cc/7MAX-HUAT (emphasis added).

as it relates to its fiduciary duties. Such claims are not only misleading but are contradicted by other public statements. For example, CEO Fink has acknowledged that BlackRock has asked companies to set various emissions targets outside of the context of its ESG funds, and BlackRock threatened voting action against company directors if those emissions targets are not "meaningful." The clear message from BlackRock is that companies need to voluntarily take steps to move toward net zero emissions—which is consistent with the commitments it made to NZAM and CA100+.

17. BlackRock's voting and engagement steps have been consistent. Although BlackRock may have specific reasons to justify certain votes, it nonetheless has in many instances voted against portfolio company management's recommendation in favor of climate-related shareholder proposals. BlackRock continues to vote its shares to push companies to set emissions targets aligned with net zero—*i.e.*, a policy of generating no net carbon emissions—including in 2023 votes at Berkshire Hathaway and NewMarket Corporation. Likewise, BlackRock has repeatedly voted to pressure companies like Chevron Corporation, Walmart Inc., and United Airlines Holdings, Inc. to align their lobbying with the carbon-emissions goals of the Paris Agreement.

18. On information and belief, since 2020 when BlackRock joined CA100+, BlackRock has never supported a shareholder proposal arguing that a company has done too much to achieve net zero nor asked the company to report on the risks (*i.e.*, costs) of taking unnecessary steps toward net zero by 2050. Similarly, on information and belief, BlackRock has never adopted a policy of threatening to vote against directors for over-preparing for climate risk. BlackRock's actions are thus one-sided and, combined with its commitments, send a clear signal to companies about its views on the matter.

19. But perhaps even more importantly, BlackRock has *thousands* of closed-door engagements each year with companies, and a large percentage of those engagements involve BlackRock discussing its views on "climate and natural capital." Unlike proxy votes, which are publicly available, the details of engagements are undisclosed. A large asset manager like BlackRock can use its leverage in private engagements to convince hundreds of companies to meet its demands without having to file a single public proxy vote.

20. ***Second,*** BlackRock has overstated the extent to which its ESG aims bear on companies' financial positioning and performance. The problem is most acute in the context of BlackRock's ESG funds—*i.e.*, funds that, according to BlackRock, expressly take ESG factors into account when selecting investments. BlackRock has repeatedly represented that considering ESG factors in these funds creates purported *financial* benefits to investors. BlackRock's prior ESG-fund disclosures reported to consumers that "Sustainability Characteristics … can provide insight into the effective management and ***long-term financial prospects of a fund***."[12] BlackRock fund documents continue to identify climate change as "a key factor in many companies' long-term prospects."[13] BlackRock's 2022 response to broader ESG critiques similarly represented that BlackRock's "focus on climate risk and energy ***is about driving financial outcomes*** for clients."[14]

21. Yet elsewhere, BlackRock has admitted that leading ESG considerations do not materially affect funds' financial standing. BlackRock's current ESG-fund websites, for example, state that sustainability metrics "***do not provide an indication of current or future performance***

[12] *See, e.g.*, BlackRock, *iShares ESG Screened S&P; Small-Cap ETF* (Oct. 11, 2021), https://web.archive.org/web/20211011144123/https://www.blackrock.com/us/individual/products/315920/ishares-esg-screened-s-p-small-cap-etf (emphasis added).
[13] *See, e.g.*, iShares Trust, *Statement of Additional Information* A-10 (revised Oct. 13, 2023), http://tinyurl.com/5abu6p26. Note that this is the same document for many of BlackRock's largest funds, including non-ESG funds. *Id.* at 1 ("This combined Statement of Additional Information … should be read in conjunction with the current prospectuses" of over 50 ETFs.)
[14] BlackRock, *Energy Investing: Setting the Record Straight*, https://perma.cc/5Q6G-BH7Y (emphasis added).

nor do they represent the potential risk and reward profile of a fund."[15] Similarly, Carol Crozat, the former head of fundamental research at BlackRock Sustainable Investing, "is calling for a rethink of green finance," including by driving a clearer "distinction between risk-adjusted financial performance, ethics and the pursuit of impact."[16] Crozat criticized the notion that financial performance and ESG impact "could always go together" as an "illusion." *Id.*

22. These admissions about a lack of any reliable connection between sustainability characteristics and fund performance or risk and reward profiles are consistent with a substantial body of academic literature that shows that ESG characteristics do not improve the performance of funds.[17] It also reflects the financial performance of BlackRock's own ESG funds, which have lagged behind comparable non-ESG benchmarks in certain instances while also generally charging higher fees to customers than BlackRock's comparable non-ESG funds, typically at least twice as much.[18]

23. In short, BlackRock has engaged in a series of unlawful ESG-related misrepresentations and omissions in connection with the marketing or sale of its investment products and services to Tennessee consumers. BlackRock has downplayed the extent to which ESG considerations drive its investment strategies across all holdings, even in non-ESG funds. And BlackRock has overstated the extent to which ESG considerations can affect companies' financial performance and outlook. These and other ESG deceptions on BlackRock's part have the capacity to mislead both investors who do not want to invest in assets that are or will be used to

---

[15] BlackRock, *iShares ESG Screened S&P; Small-Cap ETF*, https://perma.cc/DYX4-JTDS (emphasis added).

[16] Sophie Robinson-Tillett, *Ex-BlackRock Research Head: ESG's 'Biggest Sin' Is Conflating Finance, Impact and Ethics*, Investment & Pensions Europe (Nov. 7, 2023), https://perma.cc/MH49-RBQG.

[17] *See, e.g.*, Decl. of Prof. Sanjai Bhagat, Mot. for Prelim. Inj. 81, *Utah v. Walsh*, No. 2:23-cv-000016-z (N.D. Tex.), ECF No. 39.

[18] *Compare, e.g.*, BlackRock, *IVV: iShares Core S&P 500 ETF*, https://perma.cc/M5U8-H46D (.03% fees), *with* BlackRock, *XVV: iShares ESG Screened S&P 500 ETF*, https://perma.cc/DPM3-6CTM (.08% fees). The funds are essentially identical other than the ESG screen. Though BlackRock has stated that its fees are separately negotiated, it clearly charges more for ESG funds.

push ESG, and investors who are considering investing in ESG as a financial strategy to increase their returns.

24. The State brings this civil enforcement action to protect the public and preserve the integrity of the commercial marketplace in Tennessee in the face of BlackRock's practice of ESG evasion. The State's enforcement action seeks injunctive relief, civil penalties, disgorgement, restitution for consumers, and recoupment of the State's costs. *See* Tenn. Code Ann. § 47-18-108.

2. PARTIES AND JURISDICTION

25. The Plaintiff, State of Tennessee *ex rel.* Jonathan Skrmetti, Attorney General and Reporter, is charged with enforcing the TCPA, Tenn. Code Ann. § 47-18-108.

26. Defendant BlackRock, Inc. is a Delaware corporation. BlackRock is a publicly traded investment management firm with $8.6 trillion of AUM as of December 31, 2022.

27. As a court of general jurisdiction, the Circuit Court is authorized to hear this matter. *See* Tenn. Code Ann. §§ 16-10-101; Tenn. Code Ann. § 47-18-108.

28. Venue is proper in Williamson County because it is a county in which the deceptive acts and practices took place and continue to take place, and in which BlackRock conducts or transacts business. Tenn. Code Ann. § 47-18-108(a)(4).

29. This Court has personal jurisdiction over BlackRock based on BlackRock's contacts with consumers in Tennessee. Among other things, BlackRock markets funds through its website to consumers in Tennessee. BlackRock also allows and encourages investors to manage their investments through its website, stating, "From our Active Investor portal you can easily and safely place transactions and manage account settings for both your BlackRock mutual funds and BlackRock College Advantage 529 Plan accounts."[19]

[19] BlackRock, *Customer Service Portal*, https://perma.cc/J87P-6PVB.

3. PRE-SUIT NOTICE

30. Consistent with Tenn. Code Ann. § 47-18-108(a)(2) and (3), the State certifies that it provided BlackRock with at least ten days' notice of its intention to initiate suit, an opportunity to respond or present reasons why suit should not be initiated, and the opportunity to present a resolution proposal.

4. FACTUAL ALLEGATIONS

I. BlackRock's Investment-Management Business

31. BlackRock provides a broad range of investment management and technology services to consumers, including in Tennessee.[20] BlackRock's clients include institutional investors, which are organizations or companies that invest, such as pension funds, endowment funds, mutual funds, and government entities, as well as retail investors, which are individuals investing for their personal benefit.

32. BlackRock's product offerings to clients include mutual funds, iShares, and BlackRock ETFs.[21] Mutual funds are investments that use investor funds to purchase a portfolio of diversified holdings. For example, index mutual funds have broad diversification across an index (such as the S&P 500) and attempt to replicate the performance of the index. Mutual funds execute trades only once a day. Exchange-traded funds are similar to index mutual funds but have more flexibility, including trading within the day.

33. BlackRock is bound by fiduciary obligations when managing its clients' assets.[22]

34. BlackRock claims to seek the best risk-adjusted returns for client portfolios, within the mandates given by clients, to help them meet their investment objectives.[23]

---

[20] BlackRock 2022 10-K at 1, https://perma.cc/2TMB-P4MJ.
[21] *Id.*
[22] *Id.*
[23] *Id.*

35. BlackRock maintains a significant sales and marketing presence that is focused on establishing and maintaining retail and institutional investment management relationships by marketing its services to investors directly and through third-party distribution relationships.[24]

36. BlackRock markets its services to investors, including those in Tennessee, directly.[25] This includes institutional investors, pension funds, and individual consumers seeking to invest through a stock-trading platform or broker.

37. BlackRock's website, https://www.blackrock.com, is one method by which it markets its products and services to clients and potential clients, including those in Tennessee.

38. As of December 31, 2022, BlackRock managed trillions of dollars in equity assets for clients.[26]

39. Sixty percent of BlackRock's AUM are managed for U.S.-domiciled clients.[27]

40. BlackRock's investment management revenue is primarily comprised of fees based on a percentage of the value of AUM.[28]

41. Retail investment represented 10% of BlackRock's long-term AUM on December 31, 2022, and 32% of long-term investment advisory and administration fees (*i.e.*, "base fees") and securities lending revenue for BlackRock in 2022.[29]

42. BlackRock is the leading ETF provider in the world with $2.9 trillion of AUM as of December 31, 2022. BlackRock's iShares-branded ETFs constitute the majority of ETF AUM. BlackRock also offers BlackRock-branded ETFs.[30]

---

[24] *Id.*
[25] *Id.*
[26] *Id.* at 2.
[27] *Id.* at 1.
[28] *Id.* at 20, 34.
[29] *Id.* at 3.
[30] *Id.* at 4.

43. BlackRock's iShares and BlackRock-branded ETFs have a significant retail component.[31]

44. BlackRock serves retail investors through separate accounts, open-end and closed-end funds, unit trusts, and private investment funds. Retail investors are served principally through intermediaries, including broker-dealers, banks, trust companies, insurance companies, and independent financial advisors.[32]

45. BlackRock also serves institutional investors, including pensions, endowments and foundations, official institutions, and financial institutions.[33]

46. In order to grow its business, BlackRock must be able to compete effectively for AUM with other financial institutions that offer products that are similar or alternatives to those offered by BlackRock.[34]

47. BlackRock competes for consumers and other clients based on investment performance track records, the efficient delivery of beta—or sought-after risk-return—for index products, investment style and discipline, price, client service, and brand name recognition.[35]

48. Shifts by BlackRock clients to products that charge lower fees could cause BlackRock's AUM, revenue, or earnings to decline.[36] Client withdrawals in favor of competitors' products likewise could cause BlackRock's AUM, revenue, or earnings to decline.[37] BlackRock thus has a strong economic incentive to justify its fees to clients when they are higher than competing products based on some rationale that it believes will be persuasive to consumers.

---

[31] *Id.* at 3.
[32] *Id.*
[33] *Id.* at 4.
[34] *Id.* at 11.
[35] *Id.*
[36] *Id.* at 22.
[37] *Id.*

49. A reduced ability to attract additional funds from existing and new clients could cause BlackRock's AUM, revenue, or earnings to decline.[38] BlackRock thus has a strong economic incentive not to alienate any of its present or potential future clients, even if BlackRock is supporting political or social activism that some customers may not want to support. This is particularly true when BlackRock uses the weight of all AUM to engage in activity that is not for the purpose of financial returns for clients. Such conduct includes BlackRock joining global activist organizations like CA100+ and NZAM.

II. BlackRock's ESG Evasions

A. BlackRock Commits to Pursuing Extensive ESG Goals

50. Nearly two decades ago, the term "ESG" was coined in a report entitled "Who Cares Wins," which urged that "all actors contribute to the integration of environmental, social and governance issues in investment decisions."[39] That report was the result of a joint initiative of financial institutions and the World Bank Group, as requested by then-Secretary-General Kofi Annan and overseen by the United Nations Global Compact.[40]

51. Since then, the United Nations and other governmental entities have exerted ever-increasing pressure on financial institutions to adopt broader and more demanding ESG commitments.

52. Large investment managers such as BlackRock have been prime targets for these efforts, because their assets under management include quantities of shares that make up huge portions of publicly traded companies. In particular, the index funds and ETFs held by the four

---

[38] *Id.*
[39] The Global Compact, *Who Cares Wins*, ii (2004), https://perma.cc/SSV3-9DYT.
[40] *Id.* at i.

largest investment managers control about 25% of the shares of the vast majority of public companies.[41]

53. These holdings give the largest investment managers enormous power and influence, because these shares can be voted at company meetings to support or oppose directors, management, and shareholder resolutions.

54. That power also extends to "engagements," in which investment managers meet with companies behind closed doors to discuss the investment managers' viewpoints. These engagements come with the implicit or explicit threat that if a company or director fails to address the investment manager's concerns, the investment manager could vote all of its shares against the company or director, potentially determining the outcome of a vote.

55. Engagements also allow investment managers to influence company policies without taking any public action and without any shareholder vote.

56. Finally, BlackRock's power extends even beyond engagements to influence that it exerts through public statements, such as CEO Fink's statements in interviews, at conferences, or in his yearly letters to CEOs. If BlackRock publicly sets expectations, companies have an incentive to conform to those expectations, even if BlackRock has not yet expressed those expectations in a private engagement with the company.

57. For these reasons, BlackRock has long been a top target of climate activists. As one of the world's largest asset managers, a strong ESG commitment from BlackRock could single-handedly convince companies to adopt ESG mandates or determine the outcome of some ESG shareholder proposals.

---

[41] Claire Donnelly & Meghna Chakrabarti, *Are Index Funds Getting Too Powerful?*, WBUR (Aug. 7, 2023), https://perma.cc/WXS4-KNS3.

58. Yet, as at least one proxy advisor has indicated, BlackRock need not win a given shareholder proposal vote to effect corporate change. UNPRI reported that Glass Lewis and others are starting to coalesce around the idea that 50% should not be required for when boards and management teams respond to proposals, rather that the number should be as low as 20% for proposals opposed by management.[42] And Glass Lewis's 2023 policy guidelines reflect that 20% number for proposals opposed by management.[43]

59. BlackRock was not part of the initial group convened by the United Nations, and the company's "late to the party" status frustrated pro-ESG governments and activists.[44] For example, in December 2016, the Seattle City Employees' Retirement System put BlackRock "on watch" for issues such as its "reticence to oppose management [and] limited focus on environmental and social issues," threatening to pull about $350 million from BlackRock's management.[45]

60. Soon, however, BlackRock took steps that pleased ESG activists. In 2017, it cast proxy votes for prominent pro-ESG resolutions at Exxon Mobil and Occidental Petroleum. In 2018, BlackRock CEO Larry Fink announced that "[s]ociety is demanding that companies…serve a social purpose" and that BlackRock would push for more company engagements, taking those engagements "to a new level" rather than being "too focused on annual meetings and proxy votes."[46]

61. Some ESG activists were placated, at least temporarily. The Seattle City Employees' Retirement System took BlackRock off of its watchlist and kept its business with

---

[42] UNPRI, *Are Corporate Boards Responding to Successful Shareholder ESG Proposals?* (Mar. 1, 2023), https://perma.cc/G3HB-TNCS.
[43] Glass Lewis, *2023 Policy Guidelines* 10, https://perma.cc/2B47-8AKW.
[44] Helen Avery, *ESG: The Stewardship Revolution*, Euro Money (Nov. 30, 2017), https://perma.cc/8XNV-SGZZ.
[45] *Id.*
[46] Larry Fink, *A Sense of Purpose*, Harvard Law School Forum on Corporate Governance (Jan. 17, 2018), https://perma.cc/6ABP-FQAY.

BlackRock.[47] Others, however, openly questioned why BlackRock had not cast *more* ESG votes and wondered if the "votes were purely done because Exxon is so high profile."[48]

62. In 2017, massive government pension funds such as California's Public Employees Retirement System (the country's largest pension fund) helped launch Climate Action 100+, and in 2018, Japan's GPIF (the world's largest pension fund) joined the group as well. Climate Action 100+, which launched with over 200 signatories and $26 *trillion* in assets under management,[49] created a "common high-level agenda for company engagement to achieve clear commitments to cut emissions,"[50] and demanded that its asset owner members "request their managers or service providers join the initiative."[51]

63. However, joining Climate Action 100+ and carrying out its agenda would divert BlackRock's attention away from a sole focus on financial returns, possibly causing BlackRock to lose business from investors focused on those returns.

64. BlackRock's financial dilemma was clear. The largest pension funds in the country and in the world were demanding that BlackRock join pro-ESG organizations and give its full-throated support for ESG objectives. But other investors and government funds wanted BlackRock to abide by its fiduciary duties by solely seeking financial returns, rather than ESG returns.

65. BlackRock appears to have settled on a strategy of telling both sides what they wanted to hear, in an effort to keep everyone's business. It would make high-profile public commitments to manage all of its funds in line with ESG objectives, but then tell financially

---

[47] CNBC, *Biggest US Index Funds Oppose Most Climate Proposals in Shareholder Votes* (Oct. 8, 2019), https://perma.cc/7AKC-SLZB.
[48] Helen Avery, *ESG: The Stewardship Revolution*, Euro Money (Nov. 30, 2017), https://perma.cc/8XNV-SGZZ.
[49] Climate Action 100+, *Investors* (Dec. 12, 2017), https://web.archive.org/web/20171229231001/https://climateaction100.wordpress.com/investors/.
[50] Climate Action 100+, *The Three Asks* (Mar. 3, 2021), https://web.archive.org/web/20210303172551/https://www.climateaction100.org/approach/the-three-asks/.
[51] Climate Action 100+, *How We Work* (Mar. 15, 2023), https://web.archive.org/web/20230315025153/https://www.climateaction100.org/approach/how-we-work/.

focused investors that it would *not* manage their funds in line with ESG objectives. Regardless of their merits as part of a marketing strategy, both of those statements cannot be true.

66. After making climate commitments to CA 100+ and NZAM, BlackRock's support for key pro-ESG proposals surged from 10% in 2020 to 41% in 2021, and ESG activist group Ceres crowed that "the market's largest asset managers were, for the first time ever, the ones driving" "record gains this year in supporting shareholder proposals aimed at getting companies to address climate change."[52]

67. But BlackRock's commitments and proxy voting in accordance with those commitments eventually led to "backlash" from some regulators, policymakers, and investors.[53] CEO Fink has publicly brushed off concerns about states that have switched fund management away from BlackRock due to its ESG agenda, stating, "[w]e lost about $4 billion of flows from various states, but … just last year in the United States our clients entrusted us with an additional $230 billion. So you tell me—$4 billion out or $230 billion in, in the U.S."[54]

68. After the backlash, BlackRock has nonetheless re-adjusted its proxy voting patterns, and its percentage of votes for pro-ESG resolutions decreased in 2022 and 2023. BlackRock did not attribute this to the backlash, and instead claimed that its decrease was due to a decrease in proposal quality and an increase in companies providing ESG disclosures.[55]

69. BlackRock's voting percentage in favor of ESG proposals also has dropped off because companies already have implemented BlackRock's preferred ESG policies. For example,

---

[52] Ceres, *As Climate Risks Skyrocket, Largest Asset Managers Vote for More Climate-Related Shareholder Proposals, Tipping Support to Record Levels in 2021*, https://perma.cc/8X98-UC8W.

[53] Ed. Board, *The ESG Investing Backlash Arrives*, Wall St. J. (Aug. 15, 2022), https://www.wsj.com/articles/the-esg-backlash-arrives-blackrock-mark-brnovich-strive-asset-management-attorneys-general-11660600459; *see also, e.g.*, Letter from 19 Attorneys General to BlackRock CEO Laurence D. Fink, https://perma.cc/25PA-EVZQ.

[54] *BlackRock's Fink Says ESG Narrative Has Become Personal*, Bloomberg (Jan. 17, 2023). https://www.bloomberg.com/news/videos/2023-01-17/blackrock-s-fink-says-esg-narrative-has-become-personal-video.

[55] BlackRock, *2023 Global Voting Spotlight* 12 (2023), https://perma.cc/ELV4-2KDY.

BlackRock justified a 2023 vote against an emissions-disclosure resolution at Chevron by explaining that the company had already set the emissions targets that the proponent was seeking, after a similar shareholder proposal had passed in 2021.[56] BlackRock's explanation failed to note that the 2021 proposal had passed with BlackRock's support.[57] In some cases, the change in position that has led to BlackRock's "no" vote on a shareholder ESG proposal has been a direct result of previous BlackRock engagements pushing the company to take related ESG action.[58]

70. BlackRock continues, however, to emphasize its strategy of privately engaging with companies, with over 1,600 closed-door company engagements on "climate and natural capital" in the 2022-23 proxy year alone, making this one of its "five priorities" for engagement.[59]

B. BlackRock Makes Deceptive Statements, Disclosures, and Omissions About Its Pursuit of ESG

71. The funds BlackRock offers to investors generally fall into two categories: (1) funds without any explicit ESG or sustainability labeling or objectives ("non-ESG funds"), and (2) funds with explicit ESG or sustainability labeling or objectives ("ESG funds").

72. BlackRock's largest equity ETFs are marketed as non-ESG funds, and include products like (i) IVV, iShares Core S&P 500 ETF, (ii) IEFA, iShares Core MSCI EAFE ETF, and (iii) IJH, iShares Core S&P Mid-Cap ETF.

---

[56] BlackRock Investment Stewardship, *Vote Bulletin: Chevron Corporation* (May 31, 2023), https://perma.cc/ST7M-MPDB.
[57] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Chevron; click on May 26, 2021; proposal 4).
[58] BlackRock, *Our Approach to Sustainability* 20 (2021), https://perma.cc/F4T5-7Z4A.
[59] BlackRock, *2023 Global Voting Spotlight* 15 (2023), https://perma.cc/ELV4-2KDY; *see also* Larry Fink, *A Sense of Purpose*, Harvard Law School Forum on Corporate Governance (Jan. 17, 2018), https://perma.cc/6ABP-FQAY (announcing BlackRock would shift its focus to year-round engagement rather than being "too focused on annual meetings and proxy votes").

73. Blackrock also offers bond ETFs, many of which it likewise markets as non-ESG funds. These bond ETFs include products like (i) AGG, iShares Core U.S. Aggregate Bond ETF, and (ii) LQD, iShares iBoxx $ Investment Grade Corporate Bond ETF.

74. Investors can choose funds in this range of equity and bond ETF products, such as by picking an ETF that tracks a particular domestic index or holds stocks only in the largest companies. A listing of examples of BlackRock's non-ESG equity and bond ETFs is appended to this Complaint as Addendum A ("Listed Non-ESG Funds").

75. BlackRock has made and continues to make deceptive and misleading representations and omissions regarding the Listed Non-ESG Funds. Through these deceptive statements and omissions, BlackRock has downplayed its activities and its funds' role in aggressively driving the transition to net zero greenhouse gas emissions.

76. BlackRock also has misleadingly represented the current level of country support for and the possibility of achieving such climate-change initiatives—thus deceiving consumers about these initiatives' ties to financial performance, rather than ESG aims.

77. All of the foregoing has the tendency to mislead consumers about the role of the purportedly non-ESG BlackRock funds in promoting ESG. Investors and consumers rely on these statements in deciding whether to use BlackRock investment products, especially because the use or non-use of ESG considerations has become a highly visible and controversial factor for investors and consumers.

78. BlackRock's deceptive and misleading statements, representations, and omissions have appeared in various company publications and disclosures, as detailed below.

1. *Misleading Statements on Non-ESG-Fund Websites*

79. BlackRock maintains webpages on its www.blackrock.com website for each of the Listed Non-ESG Funds in Addendum A of this Complaint.

80. The fund websites follow a similar template, and each of them contains a large heading entitled "Sustainability Characteristics."

81. Under the "Sustainability Characteristics" heading, BlackRock represents the following for each of the Listed Non-ESG funds (with emphasis in the original):

> **"This fund does not seek to follow a sustainable, impact, or ESG investment strategy.** The metrics do not change the fund's investment objective or constrain the fund's investable universe, and there is no indication that a sustainable, impact or ESG investment strategy will be adopted by the fund."[60]

82. BlackRock's disclosure thus states that the Listed Non-ESG Funds (i) "do not seek to follow" an "ESG investment strategy," and (ii) that there is "no indication" such an ESG investment strategy "will be adopted by the fund." These BlackRock representations regarding its Listed Non-ESG Funds are false or deceptive for several reasons.

83. *First*, BlackRock (and reasonable consumers) understand engagement to be part of an "investment strategy." Thus, when BlackRock engages in ESG engagements leveraging the power of its shares, it is engaging in an ESG investment strategy that includes the Listed Non-ESG Funds. To illustrate:

a. Michelle Edkins, Managing Director in BlackRock's Investment Stewardship team, admitted in an article titled "The Significance of ESG Engagement" that ESG "engagement" fits within "investment strategy" by stating, "The key is to

[60] BlackRock, *iShares Core S&P 500* ETF, https://perma.cc/M5U8-H46D.

make conscious decisions about whether, and where, engagement fits into the investment strategy."[61]

b. The United Nations Principles of Responsible Investment (PRI) similarly stated that "In Europe alone, engagement (and exercising voting rights) is the third most popular responsible investment strategy."[62] BlackRock is a signatory to UNPRI.

c. The Harvard Business School Online blog stated, in a page titled "7 ESG Investment Strategies to Consider," that the Number 5 Investment Strategy is "Shareholder action, also referred to as engagement, [which] is when investors use their power to encourage the companies they invest in to pursue material ESG opportunities."[63]

84. *Second*, BlackRock's membership in NZAM and CA100+ involves implementing a sustainable, impact, or ESG investment strategy *across all BlackRock assets*—even those implicating the Listed Non-ESG Funds. And according to BlackRock's reporting, it has started the push towards achieving these measures across all assets.

85. NZAM launched in 2020, as a group of asset managers aiming to "galvanise the asset management industry to commit to a goal of net zero emissions."[64]

---

[61] Michelle Edkins, *The Significance of ESG Engagement* 4, Engagement Strategies (2015), https://perma.cc/SYZ6-W8LM.
[62] Principles for Responsible Investment, *How ESG Engagement Creates Value for Investors and Companies* (2018), https://perma.cc/4FPC-TBRE.
[63] Harvard Business School Online, *7 ESG Investment Strategies to Consider* (Sep. 15, 2022), https://perma.cc/KB75-VN5D.
[64] The Net Zero Asset Managers Initiative, *The Net Zero Asset Managers Initiative*, https://perma.cc/64A9-5D46.

86. BlackRock joined NZAM in March 2021, causing NZAM to issue a press release that BlackRock was "committing to [the] net zero goal."[65] As a signatory of NZAM, BlackRock pledged that it would "[a]cross all assets under management … [i]mplement a stewardship and engagement strategy, with a clear escalation and voting policy, that is consistent with [the] ambition for all assets under management to achieve net zero emissions by 2050 or sooner."[66]

87. NZAM has stated that "[t]he [NZAM] commitment also ensures that several important actions – such as stewardship and policy advocacy – are comprehensively implemented."[67]

88. BlackRock also "commit[ted] to support the goal of net zero greenhouse gas . . . emissions by 2050, in line with global efforts to limit warming to 1.5°C." Joining NZAM requires a commitment to:

a. "[w]ork in partnership with asset owner clients on decarbonisation goals, consistent with an ambition to reach net zero emissions by 2050 or sooner across all assets under management";

b. "[s]et an interim target for the proportion of assets to be managed in line with the attainment of net zero emissions by 2050 or sooner"; and

c. "review [one's] interim target at least every five years, with a view to ratcheting up the proportion of AUM covered until 100% of assets are included."[68]

89. "The [NZAM] commitment sets out a range of actions that asset managers [such as BlackRock] will take forward which are the key components required to accelerate the transition

---

[65] The Net Zero Asset Managers Initiative, *The Net Zero Asset Managers Initiative Grows to 87 Investors Managing $37 Trillion, with the World's Three Largest Asset Managers Now Committing to Net Zero Goal*, https://perma.cc/822C-4CYW.
[66] The Net Zero Asset Managers Initiative, *Commitment*, https://perma.cc/7MAX-HUAT.
[67] The Net Zero Asset Managers Initiative, *FAQ*, https://perma.cc/2JQK-YBS6.
[68] The Net Zero Asset Managers Initiative, *Commitment*, https://perma.cc/7MAX-HUAT.

to net zero and achieve emissions reductions in the real economy: Engaging with clients, setting targets for assets managed in line with net zero pathways, corporate engagement and stewardship, [and] policy advocacy."[69]

90. In its NZAM "Initial Target Disclosure Report" in May 2022, BlackRock stated that it was "initially" or "currently" committing 77% of total AUM (or $7.3 trillion dollars) to be managed in line with net zero by 2030.[70]

91. The NZAM commitment also requires in three different places for BlackRock to follow Michael Bloomberg's Task Force on Climate-Related Financial Disclosure ("TCFD") recommendations, including to "[p]ublish TCFD disclosures, including a climate action plan, annually."[71]

92. BlackRock stated in its 2021 TCFD report that "Sustainability, including climate-related issues – from the integration of ESG factors into the firm's investment processes, ***to sustainable investment strategies and investment stewardship priorities*** – is a critical component of the firm's ***overall business strategy*** and the objectives of senior management over which the Board has oversight" (emphasis added).[72]

93. BlackRock's 2022 TCFD report, which appears to be its most recent report that applies to the entire company, similarly states that "Sustainability, including climate-related issues is a critical component of the firm's overall business strategy and the objectives of senior management over which the Board has oversight." And it represents that the "Investment

[69] The Net Zero Asset Managers Initiative, *FAQ*, https://perma.cc/2JQK-YBS6.
[70] The Net Zero Asset Managers Initiative, *Initial Target Disclosure Report* 28 (May 2022), https://perma.cc/RB85-835Y.
[71] The Net Zero Asset Managers Initiative, *Commitment*, https://perma.cc/7MAX-HUAT.
[72] BlackRock, *2021 TCFD Report* 11, https://perma.cc/TG99-JC5H.

Subcommittee" of the Global Executive Committee "[o]versees ESG integration in BlackRock's firmwide processes."[73]

94. Under its NZAM membership, then, BlackRock has vowed to "*comprehensively* implement[]" an "engagement strategy" to drive net-zero emissions "across *all* assets under management." BlackRock's subsequent disclosures reveal that the company has implemented this strategy in "BlackRock's *firmwide* processes." Plainly, BlackRock has incorporated an ESG "investment strategy" applicable to *all BlackRock assets* and related company processes.

95. BlackRock's status as a signatory of CA100+ has also led the company to take actions and make commitments that conflict with its disclosures for the Listed Non-ESG Funds.

96. As noted above, CA100+ was founded in 2017 by a group of government funds, activists, and companies seeking to force target companies to reduce greenhouse gas emissions.[74]

97. BlackRock joined CA100+ in 2020. In announcing BlackRock's membership, CA100+ stated in its announcement press release that BlackRock was "responding to the demands of its asset owner clients," and that BlackRock would bring "even more heft to investor engagement" and "ensure [the] largest corporate emitters act on climate crisis."[75]

98. By joining CA100+, BlackRock committed to "support the Paris Agreement and the need for the world to transition to a lower carbon economy." BlackRock further pledged to "secure commitments from the boards and senior management [of companies in which BlackRock funds invest] to . . . [t]ake action to reduce greenhouse gas emissions across their value chain, consistent with the Paris Agreement's goal of limiting global average temperature increase to well

---

[73] BlackRock, *2022 TCFD Report* 11, https://perma.cc/TJ7Z-VJ4N.
[74] Climate Action, *Investors* (Dec. 12, 2017), https://web.archive.org/web/20171229231001/https://climateaction100.wordpress.com/investors/.
[75] Climate Action 100+, *BlackRock Joins Climate Action 100+ to Ensure Largest Corporate Emitters Act on Climate Crisis* (Jan. 9, 2020), https://perma.cc/EUC4-C6UW.

below 2 degrees Celsius above pre-industrial levels." BlackRock also agreed to use "a range of engagement approaches to ensure fulfillment of the abovementioned goals."[76]

99. BlackRock made certain disclaimers when joining CA100+, including the statement that it would continue to follow its fiduciary and contractual duties when pursuing CA100+ aims. BlackRock stated that it would "independently" determine how to "prioritize engagements" and "vote proxies." In its Net Zero Statement, BlackRock said that its "role in the transition is as a fiduciary to [its] clients" and "to help them navigate investment risks and opportunities, not to engineer a specific decarbonization outcome in the real economy."

100. But BlackRock's sign-on statements nevertheless generally affirmed that BlackRock was aligned with CA100+'s and NZAM's goals, and BlackRock stated that it was "accelerating [its] engagement" with companies on climate risk.[77] CA100+ understood as much, issuing a press release with the headline "BlackRock Joins Climate Action 100+ to Ensure Largest Corporate Emitters Act on Climate Crisis." CA100+'s press release quoted steering committee members stating that BlackRock's decision "sends a powerful signal to companies to reduce emissions" and would bring "even more heft to investor engagement."[78] And the NZAM commitment specifically includes a pledge to work to "overcome the constraints [signatories] face."[79]

101. BlackRock's public statements and conduct further belie these disclaimers' message that BlackRock is exclusively acting consistent with a financially focused fiduciary duty.

---

[76] BlackRock, *Climate Action 100+ Sign-on Statement* 1 (Jan. 6, 2020), https://perma.cc/BLL8-QDEV.
[77] *Id.* at 2–3 (Jan. 6, 2020).
[78] Climate Action 100+, *BlackRock Joins Climate Action 100+ to Ensure Largest Corporate Emitters Act on Climate Crisis* (Jan. 9, 2020), https://perma.cc/EUC4-C6UW.
[79] The Net Zero Asset Managers Initiative, Commitment, https://perma.cc/7MAX-HUAT.

Instead, the company's focus on ESG aims and promoting climate-change policy has been at the forefront of key policies and votes.

102. Specifically, according to its own publicly available statements, BlackRock has repeatedly used its proxy votes to further its climate commitments and related ESG agenda. Examples include:

a. **Whitehaven Coal.** At the October 2021 meeting for Whitehaven Coal, BlackRock voted against all directors up for election because the company's disclosures did not "include GHG reductions targets or alignment with a global aspiration of net zero GHG emissions by 2050."[80] Alignment with net zero greenhouse gas emissions by 2050 is the paradigmatic example of an ESG investing strategy.

b. **Woodside Petroleum.** At the April 2021 meeting for Woodside Petroleum, BlackRock voted against a director because the board did not provide "scope 3 emissions reduction targets."[81] "Scope 3 emissions are the result of activities from assets not owned or controlled by the reporting organization, but that the organization indirectly affects in its value chain."[82]

c. **Transdigm.** BlackRock voted against the re-election of the board chair of Transdigm because of a failure "to adopt quantitative greenhouse gas emissions goals."[83]

[80] BlackRock Investment Stewardship, *Vote Bulletin: Whitehaven Coal* (Oct. 27, 2021), https://perma.cc/JBC8-C9RB.
[81] BlackRock Investment Stewardship, *Vote Bulletin: Woodside Petroleum Ltd.* (Apr. 15, 2021), https://web.archive.org/web/20220901021037/https://www.blackrock.com/corporate/literature/press-release/blk-vote-bulletin-woodside-petroleum-apr-2021.pdf. Woodside Petroleum Ltd. later completed its merger with BHP's oil and gas assets in June 2022, becoming "Woodside Energy Group" (WDS).
[82] United States Environmental Protection Agency, *Scope 3 Inventory Guidance*, https://perma.cc/YJ3X-FTNG.
[83] BlackRock, *Our Approach to Sustainability* 11 (2021), https://perma.cc/F4T5-7Z4A.

d. **Exxon.** BlackRock voted against Exxon's directors in 2021 based upon: "Exxon's failure to have clear, long-term greenhouse gas reduction targets."[84]

e. **Air Liquide.** BlackRock voted against a director due to BlackRock's "concern about the company's lack of progress on [Task Force on Climate-Related Financial Disclosures] disclosures."[85]

f. **Total.** BlackRock's "engagement intensified to encourage the company to pursue more ambitious greenhouse gas (GHG) emissions reduction targets," and other CA100+ members engaged as well. Total eventually issued a joint statement with CA100+ members announcing "more aggressive 2020 targets." Although BlackRock did not vote for a shareholder resolution at Total calling for emissions reduction targets, BlackRock explained that it only did so because the company "had already substantively met the request made in the proposal."[86]

103. These specific examples align with BlackRock's statements on its ESG-voting patterns and commitment to sustainable investing more broadly.

104. Moreover, public company boards and managers pay attention to what BlackRock does (for example, as evidenced by CEO Fink's annual letter to companies). Therefore, any high-profile voting activity by BlackRock has effects beyond just the particular company on which BlackRock is voting.

---

[84] *Id.*
[85] *Id.* at 12.
[86] *Id.* at 20.

105. BlackRock also has made public statements in its comments to the Securities and Exchange Commission, urging the Commission to adopt "mandatory quantitative disclosure" of emissions as an "appropriate starting point" for securities issuers.[87]

106. **Voting and Board Engagement:**

a. BlackRock's 2021 Sustainability Report noted that BlackRock, in 2020, "identified 244 companies that are making insufficient progress integrating climate risk into their business models," and "took voting action against … 22%" of them.[88] BlackRock warned that the remainder "that do not make significant progress" on climate goals "risk voting action against management in 2021." *Id.*

b. BlackRock's 2020 Client Letter reported BlackRock's ask that companies publish "their plan for operating under a scenario where the Paris Agreement's goal of limiting global warming to less than two degrees is fully realized."[89] Again, BlackRock threatened that it "will be increasingly disposed to vote against management when companies have not made sufficient progress" towards that end. *Id.*

c. BlackRock's 2021 Voting Report reveals its large-scale commitment to climate-related activity. BlackRock reported that climate was its number one

[87] BlackRock, Letter to Securities and Exchange Commission (June 11, 2021), https://www.sec.gov/comments/climate-disclosure/cll12-8906794-244146.pdf.
[88] BlackRock, *Our Approach to Sustainability* 4 (2021), https://perma.cc/F4T5-7Z4A; Ben Geman, *BlackRock Took "Voting Action" Against 53 Companies on Climate Issues So Far This Year* (Jul. 15, 2020), https://www.axios.com/2020/07/15/blackrock-voting-action-climate-change-energy; *see also* BlackRock, *Net Zero: A Fiduciary Approach* (Jan. 26, 2021), https://perma.cc/7SRM-N8GB.
[89] BlackRock, *Sustainability as BlackRock's New Standard for Investing* (2020), https://perma.cc/98TP-AKZL.

engagement factor in 2020-2021, constituting 2,330 engagements with company management.[90]

d. Additional examples are provided below, including at paragraph 145–46, *infra*.

107. **Sustainable Investing:**

a. BlackRock's 2020 Client Letter reported that it was "making sustainability integral to the way BlackRock manages risk, constructs portfolios, designs products, and engages with companies."[91]

b. That letter continued: "Where we have the greatest discretion – in portfolio construction, our active and alternatives platforms, and our approach to risk management – we will employ sustainability across our investment process. Where we serve index clients, we are improving access to sustainable investment options, and we are enhancing our stewardship to make sure that companies in which our clients are invested are managing these risks effectively. We will also work with a broad range of parties – including asset owners, index providers, and regulatory and multilateral institutions – to advance sustainability in finance."[92]

c. BlackRock 2021 Client Letter likewise professed that "[s]ustainability issues are no longer something that can be addressed after strategic investment

[90] BlackRock, *Pursuing Long-Term Value for Our Clients* 8 (2021), https://perma.cc/K6UE-D8DR.
[91] BlackRock, *Sustainability as BlackRock's New Standard for Investing* (2020), https://perma.cc/98TP-AKZL.
[92] *Id.*

decisions have been made – rather, we believe they are indispensable to making investment decisions."[93]

d. In short, as BlackRock headlined its 2020 letter to clients, "Sustainability [is] BlackRock's New Standard for Investing."[94]

108. BlackRock's policies, actions, and ESG commitments directly conflict with the Listed Non-ESG Funds' disclosures, which state that those funds (i) "do not seek to follow" an "ESG investment strategy," and (ii) that there is "no indication" such an ESG investment strategy "will be adopted by the fund." Yet BlackRock's webpages for each of Listed Non-ESG Funds do not even mention BlackRock's membership in CA100+ or NZAM, let alone disclose to customers what those commitments entail.

109. The following table shows the difference between what BlackRock represents to investors in its statements on the websites of its non-ESG funds and the truth—its commitment to reach net zero emissions by 2050 or sooner applies ***across all assets under management***.

---

[93] BlackRock, *Net Zero: A Fiduciary Approach* (2021), https://www.blackrock.com/corporate/investor-relations/2021-blackrock-client-letter.

[94] BlackRock, *Sustainability as BlackRock's New Standard for Investing* (2020), https://perma.cc/98TP-AKZL; *see* BlackRock, *Sustainable and Transition Investing*, https://web.archive.org/web/20230524152011/https://www.blackrock.com/hk/en/investment-ideas/sustainable-investing (BlackRock's Hong Kong site, stating "[s]ustainability is the new standard for investing. It is integral to the way we manage risk).

BlackRock's Representation on Non-ESG Fund Websites	**BlackRock's Commitments and Statements Relating to ESG**
"This fund does not seek to follow a sustainable, impact, or ESG investment strategy." *See* Paragraph 81, *supra*.	Michelle Edkins, BlackRock's Managing Director, admitted in an article titled "The Significance of ESG Engagement" that "engagement" fits in "investment strategy" by stating, "The key is to make conscious decisions about whether, and where, engagement fits into the investment strategy."[95] BlackRock pledged to NZAM "[a]cross all assets under management" to "[i]mplement a stewardship and engagement strategy, with a clear escalation and voting policy, that is consistent with [the] ambition for all assets under management to achieve net zero emissions by 2050 or sooner."[96] "The [NZAM] commitment also ensures that several important actions – such as stewardship and policy advocacy – are comprehensively implemented."[97]
"[T]here is no indication that a sustainable, impact or ESG investment strategy will be adopted by the fund." *See* Paragraph 81, *supra*.	BlackRock committed to NZAM to "work in partnership with asset owner clients on decarbonisation goals, consistent with an ambition to reach net zero greenhouse gas emissions by 2050 or sooner across all assets under management" and to "review [one's] interim target at least every five years, with a view to ratcheting up the proportion of AUM covered until 100% of assets are included."[98]

110. BlackRock's deceptive and misleading statements and omissions violate the TCPA.

2. *Misleading Statements in Non-ESG Fund Prospectuses*

111. BlackRock's actions to mislead consumers and investors extend beyond the company's website into Listed Non-ESG Fund prospectuses.

[95] Michelle Edkins, *The Significance of ESG Investment* 4, Engagement Strategies (2015), https://perma.cc/SYZ6-W8LM.
[96] The Net Zero Asset Managers Initiative, *Commitment*, https://perma.cc/7MAX-HUAT.
[97] The Net Zero Asset Managers Initiative, *FAQ*, https://perma.cc/2JQK-YBS6.
[98] The Net Zero Asset Managers Initiative, *Commitment*, https://perma.cc/7MAX-HUAT.

112. A fund prospectus is a key document that every consumer or investor in the relevant fund has access to. These documents are essential because they serve both existing and potential consumers. Even more, the prospectus and associated documents are viewed by and marketed to and made available to all types of investors, from large pension funds to individuals.

113. BlackRock has created a prospectus for each of the Listed Non-ESG Funds, and BlackRock makes the prospectus available through a link on the fund webpages on www.blackrock.com, among other means.

114. Consider, as an example, BlackRock's IVV fund, which tracks the S&P 500. If the consumer or potential consumer clicks on the prospectus, and then also clicks on the "Statement of Additional Information" (hereinafter, "Prospectus Statement"), the consumer is then able to scroll down to "Appendix A – iShares ETF Proxy Voting Policies." This appendix at pages A-9 through A-11 contains a discussion of BlackRock's views on "material sustainability risks and opportunities," including "climate risk" and "key stakeholder interests."[99] This discussion provides authoritative information for consumers who seek to understand how BlackRock will approach questions related to ESG. Yet this portion of the Prospectus Statement includes misleading statements and omissions throughout.

115. For each of the Listed Non-ESG Funds, there is a representation in the Prospectus Statement regarding "Climate Risk." This discussion purports to set out BlackRock's approach to assessing climate-related issues. BlackRock advises consumers in relevant part: "Specifically, we look for companies to disclose strategies they have in place that mitigate and are resilient to any **material risks to their long-term business model** associated with a range of climate-related scenarios, including a scenario in which global warming is limited to well below 2°C, considering

[99] *See* iShares Trust, *Statement of Additional Information* A-10 (revised Oct. 13, 2023), http://tinyurl.com/5abu6p26.

global ambitions to achieve a limit of 1.5°C. It is, of course, up to each company to define their own strategy: **that is not the role of BlackRock or other investors**."[100] This Prospectus Statement representation is false or deceptive in three ways.

116. To start, the first bolded statement says it is applicable to "material risks," but BlackRock's pledge as a member of CA100+ and NZAM is to force companies to disclose targets for net zero emissions for environmental and political reasons (limiting global warming to well below 2°C, with an ambition to achieve 1.5°C), without regard to materiality to the particular company's financial performance. BlackRock makes no mention of this commitment to non-financially-material environmental factors when explaining its portfolio company disclosure expectations to fund investors.

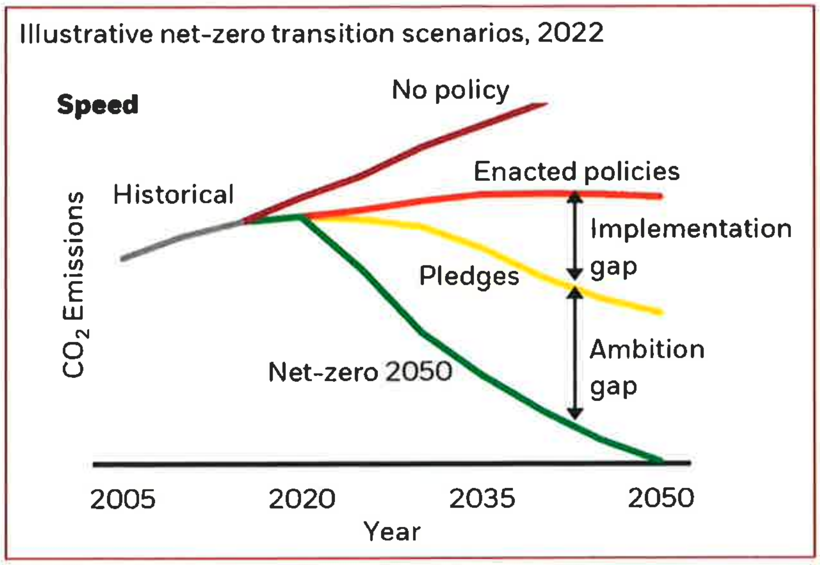
117. Secondly, the remainder of the sentence following the first bolded statement in the Prospectus Statement quoted in paragraph 115 of this Complaint is also deceptive because it does not disclose to investors that the "scenario in which global warming is limited to well below 2°C, considering global ambitions to achieve a limit of 1.5°C" is highly unlikely based on present commitments of countries, and the requirement for companies to disclose this scenario is thus intended to serve political rather than financial-reporting ends. *See also* Paragraphs 122–124, *infra* (discussing BlackRock's misrepresentations and omissions regarding its claim that "governments representing over 90% of GDP have committed to move to net-zero over the coming decades").

118. In fact, BlackRock's own presentations in other contexts show the "implementation gap" and "ambition gap."[101]

---

[100] *Id.* (emphasis added) (footnote call omitted). This statement of additional information includes purportedly non-ESG funds IVV, IJH, IWF, IJR, IWM, IWD, ITOT, IVW, IXUS, and IWB. *Id.* at 1. BlackRock's other funds have statements of information with the same language. *See, e.g.*, iShares Trust, *Statement of Additional Information* A-10 (revised June 1, 2023), http://tinyurl.com/y6vy8pud (IEFA).

[101] BlackRock, *Managing the Net-Zero Transition*, https://www.blackrock.com/corporate/insights/blackrock-investment-institute/publications/net-zero-transition.



119. Finally, the second bolded statement from the Prospectus Statement, quoted in paragraph 115 of this Complaint, is also deceptive by failing to disclose that BlackRock joined organizations to drive the global transition to net zero.

120. In sum, despite BlackRock making representations about its actions and plans with respect to greenhouse gas emissions, none of the Listed Non-ESG Funds' webpages or the prospectuses for those funds (including the accompanying Prospectus Statement) discloses to customers that BlackRock has joined CA100+ and NZAM, which are activist organizations focused on achieving a political and environmental goal.

121. The Prospectus Statement for the Listed Non-ESG Funds implicates additional false or deceptive statements and omissions.

122. Consumers and investors who read more of the Prospectus Statements for the Listed Non-ESG Funds are told by BlackRock that "[t]he global aspiration to achieve a net-zero global economy by 2050 **is reflective of aggregated efforts**; **governments representing over 90% of GDP have committed to move to net-zero over the coming decades**. In determining how to vote on behalf of clients who have authorized us to do so, we look to companies only to address issues

within their control and **do not anticipate that they will address matters that are the domain of public policy**." (Emphases added.)[102] This representation is made specifically as support for BlackRock's statement that it looks to companies to disclose emission plans for various scenarios, "including a scenario in which global warming is limited to well below 2°C, considering global ambitions to achieve a limit of 1.5°C."[103]

123. BlackRock's statement regarding "over 90% of GDP" is false or deceptive. On information and belief, it is based on statistics such as those compiled by the Net Zero Tracker showing a combined total GDP of "149 countries including the EU and Taiwan," which have "some variation of a net zero target."[104] Elsewhere, the Net Zero Tracker states that 151 countries have a net zero target. However, BlackRock does not disclose in its prospectus that such a "commitment" to a target includes non-binding pledges and mere policy documents,[105] and of the countries with a net zero "commitment," only 15% are enshrined in law.[106] Even this estimate may be overly rosy, as the Net Zero Tracker reports the United States as having policy "in law," even though Congress has not enacted any such legislation.[107] Representing to investors that a large majority of governments based on GDP have "committed" to moving to net zero but omitting that only 15% (or less) of the countries have actually made those commitments in law is misleading. BlackRock's overreporting provides the misimpression that any focus on ESG measures is related to investment performance in light of changing climate-related laws rather than BlackRock's (and BlackRock's largest governmental clients') political commitments and policy preferences.

---

[102] *See, e.g.*, iShares Trust, *Statement of Additional Information* A-10 n.7 (revised Oct. 13, 2023), http://tinyurl.com/5abu6p26.
[103] *Id.* at page A-10.
[104] Net Zero Tracker, *Net Zero Stocktake 2023* 4 (June 2023), https://perma.cc/2S7C-X7DL.
[105] *Id.* at 15; *see also* Net Zero Tracker, *Net Zero Tracker Codebook* 4–5, https://perma.cc/B6Z8-CFC2 (providing definitions of in law; in policy document; and proposed/in discussion).
[106] Net Zero Tracker, *Net Zero Stocktake 2023* 16 (June 2023), https://perma.cc/2S7C-X7DL.
[107] *See* Net Zero Tracker, *United States of America*, https://perma.cc/Q5QU-H652.

124. BlackRock's representation quoted in paragraph 122 of this Complaint about governments having "committed" to net zero is misleading in another way. BlackRock's statement fails to disclose that countries are presently not following through on such commitments both in terms of the detailed policy required to implement them and real-world actions. BlackRock's prospectus does not disclose any of the following to make its "reflective" and "committed" representation not deceptive, thus misleading investors regarding the real-world economic relevance of BlackRock's reported net zero commitment:

a. "Most global entities have still not set a net zero target consistent with what 195 nations signed up to eight years ago."[108]

b. "Most entities that have pledged net zero do not meet minimum requirements for what 'good' net zero looks like, including backing up long-term vision with urgent near-term efforts to halve emissions."[109]

c. "In countries with national targets, the lack of corresponding sub-national and private sector targets creates a significant barrier to implementation of national climate policies and undercuts the credibility of national pledges."[110]

d. "Despite having net zero pledges, no major producer countries or companies have committed to phasing out fossil fuels."[111]

e. "On the country side, existing research and analysis indicate that none of the top 10 producers of coal, gas, and oil have committed to phasing out production."[112]

[108] Net Zero Tracker, *Net Zero Stocktake 2023* 6 (June 2023), https://perma.cc/2S7C-X7DL.
[109] *Id.*
[110] *Id.* at 38.
[111] *Id.* at 24.
[112] *Id.* at 25.

f. Of the 114 fossil fuel companies tracked, "none of these companies is making the necessary commitments to fully transition away from fossil fuel extraction or production."[113]

g. The International Energy Agency (IEA) has stated that "[c]limate pledges by governments . . . would fall well short of what is required."[114]

h. A United Nations website discloses the following regarding government pledges: "commitments made by governments to date fall far short of what is required. Current national climate plans – for 193 Parties to the Paris Agreement taken together – would lead to a sizable increase of almost 11% in global greenhouse gas emissions by 2030, compared to 2010 levels. Getting to net zero requires all governments – first and foremost the biggest emitters – to significantly strengthen their Nationally Determined Contributions (NDCs) and take bold, immediate steps towards reducing emissions now."[115]

i. The Climate Action Tracker, which assesses each country's climate policies and targets, finds that not a single country in the world is aligned with the 1.5°C goal as of September 2023.[116] Two of the three largest emitters globally—China and India—are rated highly insufficient. Also in the top ten emitters are Russia and Iran, whose policies are "critically insufficient," or on track for a 4°C+ world.

---

[113] *Id.* at 5.
[114] International Energy Agency, *Pathway to Critical and Formidable Goal of Net-Zero Emissions by 2050 is Narrow But Brings Huge Benefits, According to IEA Special Report* (May 18, 2021), https://perma.cc/U669-YT59.
[115] United Nations, *Climate Action*, https://perma.cc/8Q84-QTFU.
[116] Climate Action Tracker, *Countries*, https://perma.cc/XVM6-MM7V.

j. The New York Times reported on November 8, 2022, that "[n]one of the world's biggest emitters — China, the United States, the European Union and India — have reduced their emissions enough to meet the Paris Agreement goals."[117]

k. Russia recently announced that it will oppose a plan to phase out fossil fuels, stating "in a submission to the UN's climate body … 'We oppose any provisions or outcomes that somehow discriminate or call for phaseout of any specific energy source or fossil fuel type.'"[118] Yet Russia is part of the "over 90% of GDP" that BlackRock cites in its prospectuses, presumably based on a generic statement in 2021 expressing a desire to reach "carbon neutrality no later than 2060."[119]

l. On November 8, 2023, the New York Times reported that "[i]n 2030, if current projections hold, the United States will drill for more oil and gas than at any point in its history. Russia and Saudi Arabia plan to do the same." It also reported "[T]he world remains on track to produce around 110 percent more oil, gas and coal through 2030 as would be allowable if governments wanted to limit warming to 1.5 degrees Celsius, the researchers warned. The world was also set to overshoot, by 69 percent, the amount of fossil fuels consistent with limiting warming to 2 degrees Celsius."[120]

---

[117] Max Bearak & Nadja Popovich, *The World Is Falling Short of Its Climate Goals. Four Big Emitters Show Why.*, N.Y. Times (Nov. 8, 2022), https://www.nytimes.com/interactive/2022/11/08/climate/cop27-emissions-country-compare.html.

[118] Attracta Mooney & Aime Williams, *Russia Says It Will Oppose Plan to Phase Out Fossil Fuels*, Financial Times (Oct. 4, 2023), https://perma.cc/6FTS-8WLY.

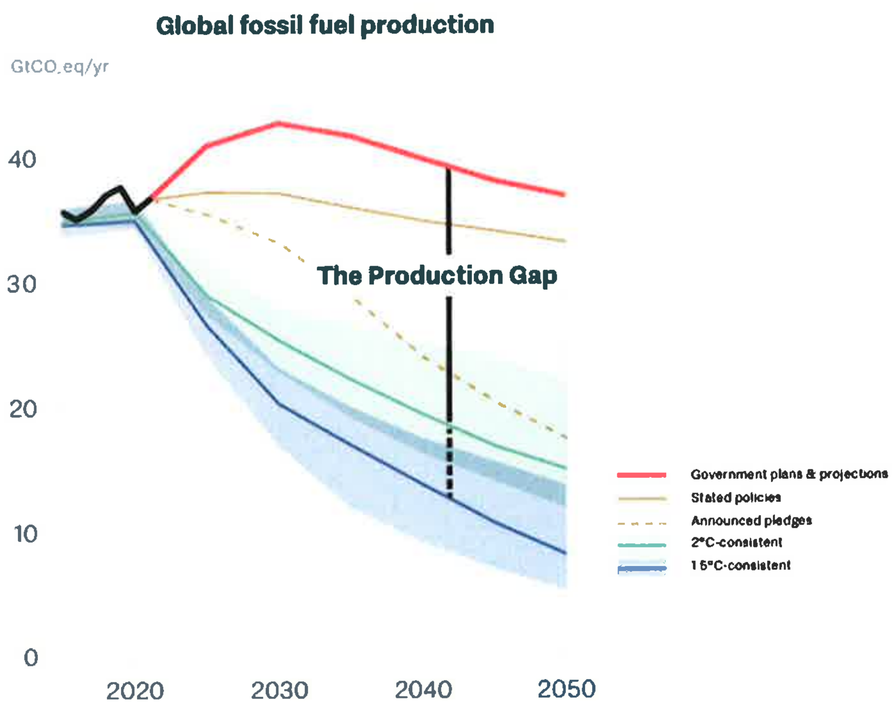
[119] President of Russia, *Instructions Following Meeting with Government Members on Climate Policy Implementation* (Nov. 23, 2021), https://perma.cc/T2P3-VQAK.

[120] Hiroko Tabuchi, *Nations That Vowed to Halt Warming Are Expanding Fossil Fuels, Report Finds*, N.Y. Times (Nov. 8, 2023), https://www.nytimes.com/2023/11/08/climate/fossil-fuels-expanding.html.

m. A report issued in November 2023 by the United Nations Environment Programme (UNEP) and several organizations found that "[g]overnments, in aggregate, still plan to produce more than double the amount of fossil fuels in 2030 than would be consistent with limiting warming to 1.5° C."[121] The following chart from that report shows the "production gap," which is "the difference between governments' plans and projections and levels consistent with limiting warming to 1.5°C and 2°C, as expressed in units of greenhouse gas emissions from fossil fuel extraction and burning."[122]

Figure ES.1

The fossil fuel production gap — the difference between governments' plans and projections and levels consistent with limiting warming to 1.5°C and 2°C, as expressed in units of greenhouse gas emissions from fossil fuel extraction and burning — remains large and expands over time. (See details in Chapter 2 and Figure 2.1)



[121] Stockholm Environment Institute (SEI), Climate Analytics, E3G, International Institute for Sustainable Development (IISD), and United Nations Environment Programme (UNEP), *The Production Gap: Phasing Down or Phasing Up? Top Fossil Fuel Producers Plan Even More Extraction Despite Climate Promises* 2 (2023), https://perma.cc/5ECS-YVZ8.

[122] *Id.* at 3.

125. BlackRock's discussion in the prospectus statement of additional information (quoted in paragraphs 115 and 122 of this Complaint) omits all of the information from the preceding paragraph, or similar information, when disclosing that BlackRock is "look[ing] for companies to disclose strategies" including for "a scenario in which global warming is limited to well below 2°C, considering global ambitions to achieve a limit of 1.5°C." BlackRock therefore has failed to disclose to investors that its actions (and commitments to CA100+ and NZAM) are about driving changes in corporate or government behavior rather than solely reflecting material financial risks to companies.

126. Furthermore, the second bolded statement from the prospectus statement of additional information quoted in paragraph 122 of this Complaint is also deceptive because it does not disclose BlackRock's involvement in limiting or otherwise changing companies' political lobbying activities to conform to the commitments that BlackRock has made to CA100+ and NZAM and that it seeks to impose on portfolio companies.

127. BlackRock has moreover supported multiple shareholder proposals, opposed by the issuing companies' management, to align company lobbying with supporting the goals of the Paris Agreement—highlighting the political nature of BlackRock's climate commitments and activities. Any reasonable reading of these proposals results in understanding that they are seeking to push companies to cease lobbying that is not aligned with the Paris Agreement. It is simply implausible that support for these proposals—combined with BlackRock's commitment to NZAM and CA100+, and statements that it would be unlikely to support directors at companies without "meaningful" carbon emissions targets—would be interpreted by portfolio company boards as anything other than pushing them to align their lobbying and political activity with the Paris

Agreement (*i.e.*, cut off funding to lobbying groups that oppose that agreement), regardless of whether it is in shareholders' financial interest to do so.

a. **Chevron:** On May 27, 2020, BlackRock voted in favor of a shareholder proposal for Chevron Corporation to report on climate lobbying.[123] The proposal asked the board to report on "if, and how, Chevron's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks."[124] Chevron management opposed this proposal, stating that "Your Board is confident that the Company's lobbying and political activities – and association memberships – are aligned with Chevron's goals and the long-term interests of our stockholders."[125] At the time of the meeting, BlackRock funds owned 6.7% of Chevron stock.[126]

b. Notably, although BlackRock voted for the shareholder proposal described above, it voted *against* a similar proposal at the same meeting.[127] The proposal BlackRock voted against contained a supporting statement praising "memberships in trade associations and non-profit groups that promote pro-business, pro-growth initiatives," such as the Business Roundtable.[128] However,

[123] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Chevron; click on May 27, 2020; proposal 6).
[124] Chevron Corporation, *2020 Proxy Statement* 78 (Mar. 30, 2020), https://perma.cc/5RBF-85NE (proposal 6).
[125] *Id.* at 79.
[126] *Id.* at 71.
[127] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Chevron; click on May 27, 2020; proposal 4).
[128] Chevron Corporation, *2020 Proxy Statement* 74 (Mar. 30, 2020), https://perma.cc/5RBF-85NE (proposal 4).

the proposal's operative language simply asked for more disclosure. To sum up, in the same meeting, BlackRock used the immense power of its shares to vote against the proposal that asked for general lobbying disclosure but for the proposal asking for disclosure specifically describing "if, and how, Chevron's lobbying activities … align with" the Paris Climate Agreement's goal.

c. The Chevron case also illustrates that even when lobbying proposals are framed merely as requests for "disclosure," when companies disclose lobbying payments to groups that are not ESG-aligned, activists then follow up by attacking the company for those payments. After the Chevron 2020 proposal received over 25% support, Chevron made some disclosures. In 2021, a new shareholder proposal "commend[ed] Chevron for now disclosing its largest trade associations," promptly criticized Chevron for supporting the Business Roundtable and Chamber of Commerce, and complained that Chevron had "spent millions lobbying to undermine" the Paris Climate Agreement.[129] BlackRock voted against the new proposal to require even more disclosures,[130] but the proposal still nearly passed even without BlackRock's support.

d. **Phillips 66:** On May 12, 2021, BlackRock voted in favor of a shareholder proposal for Phillips 66 related to climate lobbying.[131] The proposal asked the company to "conduct an evaluation and issue a report … describing if, and how, Phillips 66's lobbying activities (direct and through trade associations) align

---

[129] Chevron Corporation, *2021 Proxy Statement* (Mar. 29, 2021), https://www.sec.gov/Archives/edgar/data/93410/000119312521109793/d74377ddef14a.htm.

[130] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Chevron; click on May 26, 2021; proposal 7).

[131] *Id.* (search Phillips 66; click on May 12, 2021; proposal 6).

with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks."[132] At the time of the meeting, BlackRock owned 7.5% of Phillips 66's stock.[133]

e. **United Airlines:** On May 26, 2021, BlackRock voted in favor of a shareholder proposal for United Airlines Holdings, Inc. related to climate-related lobbying activities.[134] The proposal requested the company "conduct an evaluation and issue a report … describing if, and how, United Airlines' lobbying activities (direct and through trade associations and social welfare and nonprofit organizations) align with the Paris Climate Agreement's goal of limiting average global warming to well below 2 degrees Celsius, and how the company plans to mitigate risks presented by any misalignment."[135] United Airlines' management opposed the proposal stating, it "does not believe that this proposal is necessary or in the best interests of the Company and our stockholders."[136]

f. **Walmart:** On June 1, 2022, BlackRock supported a proposal to require Walmart Inc. to disclose lobbying and political activity.[137] The supporting statement for the proposal identified several ESG topics: "Walmart pledged $100 million to advance racial equity, including on criminal justice, yet donates

[132] Phillips 66, *2021 Proxy Statement* 70 (Mar. 31, 2021), https://perma.cc/U2VE-6LRE.
[133] *Id.* at 18.
[134] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search United Airlines; click on May 26, 2021; proposal 8).
[135] United Airlines Holdings, Inc., *2021 Proxy Statement* 129 (Apr. 7, 2021), https://ir.united.com/static-files/768915d1-2c04-4343-835e-1f39997eb3bd.
[136] *Id.* at 131.
[137] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Walmart; click on June 1, 2022; proposal 10).

to trade associations like NRF promoting harsher shoplifting penalties. Walmart supports diversity, equity, and inclusion, yet the Chamber lobbied against the For the People Act. Walmart believes in addressing climate change, yet the Chamber and BRT lobby to block climate action."[138] Walmart's board opposed this proposal.[139] In explaining its vote, BlackRock, on information and belief, stated: "We recognize the Company's efforts to date, but believe that supporting the proposal may accelerate company's progress on material political activities/lobbying issues."[140]

128. The repeated use of "if, and how" calls for disclosing lobbying strategy—namely, how the company will go about supporting the Paris Agreement politically, even though it is not law in the United States and may not be in shareholders' economic interests to do so.

129. Given BlackRock's shareholder activism relating to changing companies' lobbying activities to align with the Paris Agreement—which is not even law in the United States—BlackRock's statement in the prospectus statement of additional information that BlackRock "do[es] not anticipate that [portfolio companies] will address matters that are the domain of public policy" is false or deceptive.

130. These statements are material. The prospectus and related documents, including the Prospectus Statement, are some of the most essential documents that investors turn to in making investment decisions. And whether an investment company promotes ESG, or else focuses exclusively on maximizing financial returns, is a significant consideration for many consumers.

---

[138] Walmart, *2022 Proxy Statement* 99 (Apr. 21, 2022), https://perma.cc/L98H-4BPR.
[139] *Id.* at 100.
[140] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Walmart; click on June 1, 2022; proposal 10).

131. BlackRock's deceptive and misleading statements and omissions related to the Non-ESG Fund Prospectuses violate the TCPA.

3. *Misleading 2030 Net Zero Statement*

132. BlackRock maintains a webpage on its https://www.blackrock.com website regarding "BlackRock's 2030 Net Zero Statement."[141] BlackRock states on that webpage that its "role in the transition is as a fiduciary to our clients. Our role is to help them navigate investment risks and opportunities, **not to engineer a specific decarbonization outcome in the real economy**" (emphasis added).

133. The bolded statement from BlackRock's 2030 Net Zero Statement quoted in the preceding paragraph of this Complaint is false or deceptive because net zero by 2050 or sooner is a decarbonization outcome. BlackRock has committed through NZAM to "an ambition to reach net zero emissions by 2050 or sooner across all assets under management."[142] As a signatory of CA100+, BlackRock has committed to "support the Paris Agreement," which involves "limiting global average temperature increase to well below 2 degrees Celsius above pre-industrial levels."[143] Yet BlackRock does not disclose these commitments when making contrary representations.

134. Again, as it relates to one of the highly publicized controversies in the investing world, BlackRock says one thing and does another. It tells consumers that it is merely helping companies "navigate investment risks and opportunities" but has also committed to achieve specific emission reduction targets. Consumers and investors rely on published statements like the 2030 Net Zero Statement to understand how BlackRock will manage their investments. But

[141] BlackRock, *BlackRock's 2030 Net Zero Statement*, https://www.blackrock.com/corporate/sustainability/2030-net-zero-statement.
[142] The Net Zero Asset Managers Initiative, *Commitment*, https://perma.cc/7MAX-HUAT.
[143] BlackRock, *Climate Action 100+ Sign-on Statement* 1 (Jan. 6, 2020), https://perma.cc/BLL8-QDEV.

BlackRock again misleads its clients by pursuing ESG policy aims while telling consumers and investors that it will not "engineer a specific decarbonization outcome."

135. These statements are material to the many consumers who consider a company's ESG activity when assessing and making investment decisions. BlackRock posted them prominently on its website in an explanation of its net-zero position in an effort to reassure investors that BlackRock would not be using the investors' funds to seek an ESG decarbonization outcome.

136. BlackRock's deceptive and misleading statements and omissions in its 2030 Net Zero Statement violate the TCPA.

4. *Misleading Statements in BlackRock's 2022 Letter to Attorneys General and Related Webpage*

137. In response to the growing scrutiny of States and consumers, BlackRock posted a webpage in December 2022, titled "Setting the Record Straight on Energy Investing."[144] This public-facing webpage provides information to consumers and others about BlackRock's products and services after "BlackRock [was] accused of 'boycotting' oil and gas companies."[145] The "Setting the Record Straight" webpage also links to BlackRock's letter to state attorneys general with the text: "Read our September 7th response to the letter from U.S. state Attorneys' General."[146]

138. In its Attorney General response letter, BlackRock represents that its "**engagement and voting around climate risk does not require that companies meet specific emissions standards**" (emphasis added).[147]

[144] BlackRock, *Energy Investing: Setting the Record Straight*, https://perma.cc/5Q6G-BH7Y.
[145] *Id.*
[146] *Id.* (link to BlackRock, *Response to Attorneys General Letter* (Sep. 7, 2022), https://perma.cc/5BKV-EVMX).
[147] BlackRock, *Response to Attorneys General Letter* 9 (Sep. 7, 2022), https://perma.cc/5BKV-EVMX.

139. BlackRock's Attorney General response letter also represents that BlackRock does not "**dictate to companies what specific emission targets they should meet or what type of political lobbying they should pursue**," and that BlackRock's "**role is to help [clients] navigate investment risks and opportunities, not to engineer a specific decarbonization outcome in the real economy**" (emphasis added).[148]

140. The representations quoted in paragraphs 138–139 of this Complaint are false or deceptive. BlackRock CEO Larry Fink specifically said at the beginning of 2022 (nine months before sending the AG Response Letter) that BlackRock is "asking companies to set short-, medium-, and long-term targets for greenhouse gas reductions."[149]

141. In February 2021, BlackRock investment stewardship similarly stated in a document titled *Climate Risk and the Transition to a Low-Carbon Economy*, "Specifically, we expect companies to disclose scope 1 and scope 2 emissions and accompanying GHG reduction targets. Companies in carbon-intensive industries should also disclose scope 3 emissions."[150]

142. BlackRock also states in the Climate Focus Universe document, which is dated 2023 and appears to be in effect today, that:

> As outlined in BIS' market-specific voting guidelines, when corporate disclosures do not sufficiently enable investors to assess risk through the Task Force on Climate-related Financial Disclosure (TCFD) framework — including in relation to governance, strategy, and risk management — or companies have not provided scope 1 and 2 emissions disclosures and meaningful short-, medium-, and long-term targets, ***we are increasingly unlikely to support director(s) we consider responsible for climate risk oversight***.[151]

---

[148] *Id.* at 5, 7–8.
[149] BlackRock, *Larry Fink's 2022 Letter to CEOs: The Power of Capitalism* (2022), https://perma.cc/M4N6-XZJY.
[150] Jessica McDougall & Danielle Sugarman, *Climate Risk and the Transition to a Low-Carbon Economy*, Harvard Law School Forum on Corporate Governance (Mar. 2, 2021), https://perma.cc/9SJ9-PJF4.
[151] BlackRock, *BlackRock Investment Stewardship: Climate Focus Universe*, https://perma.cc/6B46-M38V (emphasis added). A consumer can access this document by visiting www.blackrock.com/corporate/insights/investment-stewardship, and then clicking on the link "Our Climate Focus Universe."

143. Being "increasingly unlikely to support director(s)" for failing to provide "meaningful short-, medium-, and long-term targets" is highly relevant to whether BlackRock is imposing targets because voting on directors is the primary mechanism BlackRock has, as an asset manager with trillions under management, to force companies to take action. Therefore, BlackRock's public statements from before and after the AG Response Letter show that representations in that response letter are false or deceptive.

144. BlackRock's votes on emission targets and political lobbying up through the most recent proxy season (2023) also show that its statements quoted in paragraphs 138–139 of this Complaint are false or deceptive.

145. BlackRock's votes on emissions targets in 2023 include the following:

a. **NewMarket Corp.:** BlackRock supported a shareholder proposal in 2023 regarding emission targets for NewMarket Corporation, "request[ing that] the company … publish their GHG emissions, and set short-, medium- and long-term emission reduction targets to align business activities with net zero emissions by 2050 in line with the Paris Climate Agreement."[152] NewMarket is a Virginia-headquartered company in the petroleum additives industry. BlackRock's support is significant because NewMarket appears to be large enough to be included in the Russell 1000, and BlackRock offers a Russell 1000 iShares fund, IWB.[153] Leading into the 2023 annual meeting, BlackRock owned 6.3% of Newmarket's shares.[154]

---

[152] NewMarket Corporation, *2023 Proxy Statement* 48 (Mar. 10, 2023), https://perma.cc/MW5M-S668 (proposal 6); BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search NewMarket; click on April 27, 2023; proposal 6).

[153] *See* BlackRock, *IWB: iShares Russell 1000 ETF*, https://perma.cc/V2SR-U5GK. This fund contains around 1,000 securities.

[154] *See* NewMarket Corp., *2023 Proxy Statement* 12 (Mar. 10, 2023), https://perma.cc/MW5M-S668.

b. **Berkshire Hathaway:** BlackRock also supported a shareholder proposal in 2023 regarding emission targets for Berkshire Hathaway. The proposal "request[ed] that Berkshire issue a report, at reasonable cost and omitting proprietary information, addressing if and how it intends to measure, disclose, and reduce the GHG emissions associated with its underwriting, insuring, and investment activities in alignment with the Paris Agreement's 1.5°C goal, requiring net zero emissions."[155] BlackRock voted for this proposal.[156] This is consistent with a previous vote on Berkshire Hathaway in 2021, when BlackRock stated "the company does not currently meet our expectations for disclosing a plan for how their business model will be compatible with a low-carbon economy."[157] Leading into the 2023 annual meeting, BlackRock reported that it owned 8% of Berkshire's outstanding Class B Stock.[158]

c. **Dollar Tree:** In 2022, BlackRock also supported multiple shareholder proposals that sought to impose GHG emissions targets on companies. A proposal asked Dollar Tree, Inc. to "disclos[e] how the Company intends to reduce its GHG emissions in alignment with the Paris Agreement's 1.5 degree goal requiring net zero emissions by 2050, including its relevant Scope 3 emissions."[159] BlackRock supported this proposal.[160] A proposal similarly asked Monster Beverage Corporation to "disclos[e] how the Company intends

---

155 Berkshire Hathaway, *2022 Proxy Statement* 15 (Mar. 17, 2023), https://perma.cc/6EUR-SRUY (proposal 6).
156 BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Berkshire Hathaway; click on May 6, 2023; proposal 6).
157 BlackRock Investment Stewardship, *Vote Bulletin: Berkshire Hathaway, Inc.* 3 (May 1, 2021), https://perma.cc/M5A8-C8S9.
158 Berkshire Hathaway, *2022 Proxy Statement* 12 (Mar. 17, 2023), https://perma.cc/6EUR-SRUY.
159 Dollar Tree, *2022 Proxy Statement* 103–104 (May 18, 2022), https://perma.cc/B9H9-FF2H (proposal 5).
160 BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Dollar Tree; click on June 20, 2022; proposal 5).

to reduce its operational and supply chain GHG emissions in alignment with the Paris Agreement's 1.5 degree goal requiring net zero emissions by 2050."[161] BlackRock supported this proposal.[162]

146. BlackRock also supported shareholder proposals to "reduce" emissions by the customers and investments of companies, not just the companies themselves, showing that BlackRock is engaging in pure activism.

a. **Chubb Ltd.:** For Chubb Ltd., a proposal asked the company to disclose "whether and how it intends to measure, disclose, and reduce the GHG emissions associated with its underwriting, insuring, and investment activities in alignment with the Paris Agreement's 1.5ºC goal, requiring net zero emissions."[163] BlackRock supported this proposal.[164] The "GHG emissions associated with" underwriting and insuring are those of Chubb's customers, not Chubb itself.

b. **Travelers Companies:** Similarly, a proposal for The Travelers Companies, Inc. asked the company to address "if and how it intends to measure, disclose, and reduce the GHG emissions associated with its underwriting, insuring, and investment activities, in alignment with the Paris Agreement's 1.5ºC goal, requiring net zero emissions."[165] BlackRock supported this proposal as well.[166]

---

[161] Monster Beverage Corporation, *2022 Proxy Statement* 61 (Apr. 27, 2022), https://materials.proxyvote.com/Approved/61174X/20220421/NPS_502186/INDEX.HTML?page=66 (proposal 4).
[162] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Monster; click on June 14, 2022; proposal 4).
[163] Chubb, *2022 Proxy Statement* 49 (Apr. 4, 2022), https://perma.cc/F4J8-PVJB (proposal 14).
[164] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Chubb; click on May 19 2022; proposal 14).
[165] Travelers, *2022 Proxy Statement* 72 (Apr. 8, 2022), https://perma.cc/C58H-M9SH (proposal 5).
[166] BlackRock, *Proxy Voting Search*, http://vds.issproxy.com/SearchPage.php?CustomerID=10228 (search Travelers; click on May 25, 2022; proposal 5).

147. The statements quoted in paragraphs 138–139 of this Complaint are a direct response to public confusion and scrutiny of BlackRock's approach to ESG. But instead of providing clarity, BlackRock materially deceives consumers and the public at large by downplaying whether and how BlackRock pushes companies to alter policies in response to the Paris Agreement and the broader climate-change agenda. This is not merely an attempt to mislead consumers, but a brazen act of deception perpetrated by top leaders at BlackRock implemented through its voting of shares and its corporate engagement strategy.

148. BlackRock's deceptive and misleading statements and omissions in its 2022 Letter to Attorneys General and related website violate the TCPA.

C. BlackRock Deceptively Casts ESG as Driving Companies' Financial Performance

149. With respect to ESG funds, BlackRock has made and makes false or deceptive representations and omissions in the prospectus, fund websites, and other websites. The relevant statements have the tendency to mislead consumers into believing that BlackRock's ESG strategy is for the purpose of achieving financial returns, when BlackRock has admitted in other contexts that ESG metrics do not improve the risk or return of a fund.

150. BlackRock offers several equity funds that are specifically marketed as ESG funds, and include products like (i) XVV, iShares ESG Screened S&P 500 ETF, (ii) XJH, iShares ESG Screened S&P Mid-Cap ETF, and (iii) XJR, iShares ESG Screened S&P Small-Cap ETF.

151. BlackRock also offers bond funds that are specifically marketed as ESG funds, and includes products like (i) EAGG, iShares ESG Aware U.S. Aggregate Bond ETF, (ii) SUSC, iShares ESG Aware USD Corporate Bond ETF, and (iii) SUSB, iShares ESG Aware 1-5 Year USD Corporate Bond ETF.

152. Investors can choose funds in this range of equity and bond ETF products, such as by picking an ETF that tracks a particular domestic index or holds stocks only in the largest companies but is screened for ESG purposes. A listing of examples of BlackRock's ESG equity and bond ETFs is appended to this Complaint as Addendum B ("Listed ESG Funds").

1. *Misleading Statements on ESG-Fund Websites*

153. BlackRock previously represented on fund websites for the Listed ESG Funds that Sustainability Characteristics **"can provide insight into the effective management and long-term financial prospects of a fund."**[167] The time period of this representation was, on information and belief, at least as early as 2021 through a period ending before August 2022.

154. For example, the Sustainability Characteristics section for the XJR fund on October 11, 2021, provided as follows:

> Sustainability Characteristics can help investors integrate non-financial, sustainability considerations into their investment process. These metrics enable investors to evaluate funds based on their environmental, social, and governance (ESG) risks and opportunities. **This analysis can provide insight into the effective management and long-term financial prospects of a fund.**[168]

155. On information and belief, by August 2022, or earlier, BlackRock had changed this language to admit that "Sustainability Characteristics do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund." The August 12, 2022 version of the XJR website regarding Sustainability Characteristics provided as follows:

---

[167] *Compare* BlackRock, *iShares ESG Screened S&P; Small-Cap ETF* (Oct. 11, 2021), https://web.archive.org/web/20211011144123/https://www.blackrock.com/us/individual/products/315920/ishares-esg-screened-s-p-small-cap-etf (emphasis added) *with* BlackRock, *iShares ESG Screened S&P Small-Cap ETF* (Aug. 12, 2022), https://web.archive.org/web/20220812002810/https://www.blackrock.com/us/individual/products/315920/ishares-esg-screened-s-p-small-cap-etf.

[168] BlackRock, *iShares ESG Screened S&P Small-Cap ETF* (Oct. 11, 2021), https://web.archive.org/web/20211011144123/https://www.blackrock.com/us/individual/products/315920/ishares-esg-screened-s-p-small-cap-etf.

> Sustainability Characteristics provide investors with specific non-traditional metrics. Alongside other metrics and information, these enable investors to evaluate funds on certain environmental, social and governance characteristics. **Sustainability Characteristics do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund.** They are provided for transparency and for information purposes only. Sustainability Characteristics should not be considered solely or in isolation, but instead are one type of information that investors may wish to consider when assessing a fund.[169]

156. BlackRock continues to make the admission that the statistics covered by sustainability characteristics "do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund."[170]

157. This change shows that BlackRock's prior representation quoted in paragraph 154 of this Complaint was untrue.

158. In addition to BlackRock changing its own fund-specific websites, multiple academic studies show that a focus on sustainability does not increase returns.[171] One paper considered Morningstar's sustainability ratings for 20,000 mutual funds. These ratings are similar to the "sustainability characteristics" because they are statistics (ranging from "five globes" to "one globe") about the sustainability of particular funds. As can be seen above, the MSCI ESG Fund Rating similarly has a spectrum from AAA to CCC for an overall fund rating. The paper concluded that funds that had higher sustainability ratings underperformed those with low ratings by 5.76% or 2.16% annually, depending on which methodology one uses. Either way, this is significant underperformance.[172]

---

[169] BlackRock, *iShares ESG Screened S&P Small-Cap ETF* (Aug. 12, 2022), https://web.archive.org/web/20220812002810/https://www.blackrock.com/us/individual/products/315920/ishares-esg-screened-s-p-small-cap-etf.
[170] BlackRock, *iShares ESG Screened S&P Small-Cap ETF*, https://perma.cc/E3GW-MFJE.
[171] *See, e.g.*, Declaration of Professor Sanjai Bhagat, Motion for Preliminary Injunction, Dkt. No. 39 at p. 81, *Utah v. Walsh*, No. 2:23-cv-000016-z (N.D. Tex.).
[172] *Id.* at page 84 ¶ 8 (citing Hartzmark and Sussman, *Do Investors Value Sustainability? A Natural Experiment Examining Ranking and Fund Flows*, The Journal of Finance (2019), https://doi.org/10.1111/jofi.12841).

159. Another paper cited is a study of studies that reviews "1,141 primary peer reviewed papers and 27 meta-reviews (based on ~1,400 underlying studies) published between 2050 and 2020." After controlling for various factors, including risk, operational efficiency, and economic methodology, "the authors document a statistically significant *negative* relation between ESG investing and investor returns."[173] Papers like this show exactly why BlackRock had to do an about-face on its prior representation regarding sustainability characteristics.

160. These statements are material. BlackRock prominently posted these statements online for its ESG funds in an effort to convince investors that investing in sustainable funds would lead to better returns—or at a minimum that ESG investing could be compatible with seeking sound financial performance. BlackRock then collected higher fees on these funds than their non-ESG counterparts.

161. BlackRock's deceptive and misleading statements and omissions on its ESG-Fund websites violate the TCPA.

2. *Misleading Statements in ESG-Fund Prospectuses*

162. In the statements of additional information corresponding to the prospectuses for the Listed ESG Funds, under "Climate Risk" BlackRock states "**It is our view that climate change has become a key factor in many companies' long-term prospects**" (emphasis added).[174]

163. This statement quoted in the preceding paragraph, as it relates to any company in a fund taking particular action, is false or deceptive given BlackRock's admission on its fund

[173] *Id.* at 84 ¶ 10 (emphasis added).
[174] *See, e.g.*, iShares Trust, *Statement of Additional Information* A-10 (revised Oct. 13, 2023), http://tinyurl.com/5abu6p26 (includes XVV, XJH, and XJR).

webpages that Sustainability Characteristics "do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund."

164. A fund prospectus is a key document that every consumer or investor in the relevant fund has access to. These documents are essential because they serve both existing and potential consumers. Even more, the prospectus and associated documents are viewed by and marketed to and made available to all types of investors, from large pension funds to individuals.

165. The false or deceptive nature of the statement quoted in paragraph 162 of this Complaint is shown by looking at the different statistics that constitute the sustainability characteristics. BlackRock describes the "implied temperature rise" as measuring "[i]f emissions in the global economy followed the same trend as the emissions of companies within the fund's portfolio, global temperatures would ultimately rise within this band."[175] Relevant portions are as follows:

> **What is the Implied Temperature Rise (ITR) metric? Learn what the metric means, how it is calculated, and about the assumptions and limitations for this forward-looking climate-related metric.**
>
> *Climate change is one of the greatest challenges in human history and will have profound implications for investors. To address climate change, many of the world's major countries have signed the Paris Agreement. The temperature goal of the Paris Agreement is to limit global warming to well below 2°C above pre-industrial levels, and ideally 1.5 °C, which will help us avoid the most severe impacts of climate change.*
>
> **What is the ITR metric?**
>
> *The ITR metric is used to provide an indication of alignment to the temperature goal of the Paris Agreement for a company or a portfolio. Scientific consensus suggests that reducing emissions until they reach net zero around mid-century (2050-2070) is how this goal could be met. A net zero emissions economy is one that balances emissions and removals.*
>
> **How is the ITR metric calculated?**
>
> *The ITR metric is calculated by looking at the current emissions intensity of companies within the fund's portfolio as well as the potential for those companies to reduce its emissions over time. If emissions in the global economy followed the same trend as the emissions of companies within the fund's portfolio, global temperatures would ultimately rise within this band.*

166. There is no basis to assume that if companies in a particular portfolio make such changes, the "global economy" will follow suit. Moreover, there does not appear to be any attempt in this statistic to tie various temperature rises to risks to particular companies in the portfolio (*e.g.*,

---

[175] BlackRock, *IVV: iShares Core S&P 500 ETF*, https://perma.cc/M5U8-H46D.

how a 2.5⁰ temperature rise financially affects the company's expected returns for shareholders versus a 2.2⁰ temperature rise or a 2.7⁰ temperature rise, or that the company would not profitably adjust to any variations in temperature rise closer to when those rises occur), showing that this statistic does not even attempt to measure actual financial risk to the fund. These problems with the sustainability statistics help explain why BlackRock had to admit that these statistics "do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund."

167. Other statistics include an MSCI ESG Quality Score (ranging from 0-10). BlackRock states that this "is calculated using the weighted average of the ESG scores of fund holdings. MSCI rates underlying holdings according to their exposure to industry specific ESG risks and their ability to manage those risks relative to peers."[176] BlackRock directs readers to MSCI's website, which explains that this rating is based on where a fund falls on the spectrum of comparable funds.[177]

168. Another statistic is the "MSCI Weighted Average Carbon Intensity (Tons CO2E/$M SALES)," which BlackRock states "measures a fund's exposure to carbon intensive companies. This figure represents the estimated greenhouse gas emissions per $1 million in sales across the fund's holdings. This allows for comparisons between funds of different sizes."[178]

169. If Sustainability Characteristics, which are nothing more than statistics measuring a company's actions related to climate change, are statistically irrelevant, as BlackRock represents and admits, then it cannot also be true that climate change is a "key factor" in companies' "long-term prospects."

[176] BlackRock, *IVV: iShares Core S&P 500 ETF*, https://perma.cc/M5U8-H46D (hover over "i" symbol next to term).
[177] *See* MCSI, *ESG Fund Ratings and Climate Search Tool*, https://perma.cc/QL62-VDKA.
[178] BlackRock, *IVV: iShares Core S&P 500 ETF*, https://perma.cc/M5U8-H46D (hover over "i" symbol next to term).

170. BlackRock also makes a much weaker statement in its 2022 TCFD report that "One of the factors that could impact capital allocation decisions, and the long-term value of a company, is how effectively companies are navigating the global energy transition in the years ahead."[179] This much weaker statement in BlackRock's 2022 TCFD report shows that BlackRock's statement in the prospectus that climate change has become a key factor in many companies' long-term prospects is deceptive.

171. The prospectuses for Listed ESG Funds also represent that: "The global aspiration to achieve a net-zero global economy by 2050 is reflective of aggregated efforts; **governments representing over 90% of GDP have committed to move to net-zero over the coming decades**. In determining how to vote on behalf of clients who have authorized us to do so, we look to companies only to address issues within their control and do not anticipate that they will address matters that are the domain of public policy" (emphasis added).

172. This statement quoted in the preceding paragraph is false or deceptive to investors or potential investors in BlackRock's ESG funds for the same reasons set forth in paragraphs 122–131 of this Complaint.

173. Further, for the EAGG, SUSC, and SUSB bond funds listed in Appendix B of this Complaint, BlackRock represents in the funds' prospectuses under "Principal Investment Strategies" that "**For each industry, MSCI ESG Research identifies key ESG issues that can lead to substantial costs or opportunities for entities (e.g., climate change, resource scarcity, demographic shifts)**" (emphasis added).[180] For the EUSB bond fund listed in Appendix B of this Complaint, BlackRock represents in the fund's prospectus under "Principal Investment Strategies" that "**For each industry, MSCI ESG Research identifies key ESG issues that can lead to**

[179] BlackRock, *2022 TCFD Report* 4, https://perma.cc/TJ7Z-VJ4N.
[180] *See, e.g.*, BlackRock, *2023 Prospectus* S-3 (June 30, 2023), https://tinyurl.com/ms4caemb (EAGG).

unexpected costs for entities in the medium- to long-term (e.g., climate change, resource scarcity, demographic shifts)" (emphasis added).[181]

174. This statement is false or deceptive given BlackRock's admission that sustainability characteristics "do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund." As explained in paragraphs 165–168 of this Complaint, the sustainability characteristics are an extensive suite of statistics prepared by MSCI, yet BlackRock admits that they do not provide an indication of future performance or potential risk and return.

175. This statement is also deceptive for the additional reason that the risks that are allegedly being screened are not tied to the maturity date of the bonds for which the fund is investing, but that is not explained to investors. For example, the SUSB, iShares ESG Aware 1-5 Year USD Corporate Bond ETF invests in "bonds having remaining maturities between one and five years." Yet there is no indication that the "climate change" risks relate to that "1-5 year" maturity period. In fact, for the EUSB fund, BlackRock specifically describes the risk of "climate change" as an "issue[] that can lead to unexpected costs" in the "medium- to long-term,"[182] showing BlackRock's statement as to SUSB and other funds is false or deceptive.

176. These statements are material. The prospectus and the documents related to the prospectus, including the Prospectus Statement, are some of the most essential documents that investors turn to in making investment decisions. Yet the statements mislead and deceive consumers into believing that ESG-focused investing is linked to companies' financial performance rather than BlackRock and others' climate-policy preferences.

---

[181] BlackRock, *2023 Prospectus* S-3 (June 30, 2023), https://tinyurl.com/mr382men (EUSB).
[182] BlackRock, *Energy Investing: Setting the Record Straight*, https://perma.cc/5Q6G-BH7Y.

177. BlackRock's deceptive and misleading statements and omissions on its ESG-Fund prospectuses violate the TCPA.

3. *Misleading Statements on BlackRock's "Setting the Record Straight" Website*

178. As explained in paragraph 137 of this Complaint, BlackRock posted a webpage in December 2022, titled "Setting the Record Straight on Energy Investing."[183] This public-facing webpage provides information to consumers and others about BlackRock's products and services after "BlackRock [was] accused of 'boycotting' oil and gas companies."[184]

179. BlackRock represents on the "Setting the Record Straight" webpage in large, bold font that "**Our focus on climate risk and energy is about driving financial outcomes for clients.**"[185]

180. BlackRock further states, "**We believe that companies that better manage their exposure to climate risk and capitalize on opportunities will generate better long term financial outcomes. … Our consideration of the risks and opportunities of a transition to a low-carbon economy is in the interest of realizing the best long-term financial results for our clients and entirely consistent with our fiduciary duty**" (emphasis added).[186]

181. The representations quoted in paragraphs 179–180 of this Complaint are false or deceptive based on BlackRock's own admissions. BlackRock admits on its fund webpages that sustainability characteristics "do not provide an indication of current or future performance nor do they represent the potential risk and reward profile of a fund." If that is the case, then BlackRock cannot truthfully state on its "Setting the Record Straight" page that its climate-risk activities are about driving financial returns—the two statements fundamentally conflict.

183 *Id.*
184 *Id.*
185 *Id.*
186 *Id.*

182. These statements are material. BlackRock made these statements and then referenced them to specifically address controversy about boycotting energy companies. It thus understood that some of its customers or potential customers clearly care about its energy-related actions and not having their savings used to push ESG aims.

183. BlackRock's deceptive and misleading statements and omissions on its "Setting the Record Straight" website violate the TCPA.

4. *Misleading Statements in BlackRock's "Investment Stewardship" Document*

184. BlackRock also still represents in its "Investment Stewardship Climate Focus Universe" document that BlackRock is "**better able to assess the long-term performance of our clients' investments when companies define short-, medium-, and long-term science-based emissions targets, where available for their sector, and disclose how these targets will affect the long-term economic interests of shareholders**" (emphasis added).[187]

185. As alleged in paragraph 168 of this Complaint, the "MSCI Weighted Average Carbon Intensity (Tons CO2E/$M SALES)" statistic under Sustainability Characteristics measures the exposure of a fund to "carbon intensive companies." If that statistic does not predict performance, as BlackRock admits, then the Climate Focus Universe statement that it can assess performance based on carbon targets must be false or deceptive, as those two things measure the same underlying fact—the amount of carbon emissions a fund is exposed to.

186. This statement is also false or deceptive for the same reasons as discussed regarding the "Setting the Record Straight" webpage and the fund prospectus statement of additional information in paragraphs 162-183 of this Complaint.

[187] BlackRock, *BlackRock Investment Stewardship: Climate Focus Universe*, https://perma.cc/6B46-M38V (emphasis added). A consumer can access this document by visiting www.blackrock.com/corporate/insights/investment-stewardship, and then clicking on the link "Our Climate Focus Universe."

187. These statements are material because they relate to the expected financial performance of funds, and the reason customers invest their money is for financial returns.

188. BlackRock's deceptive and misleading statements and omissions on its "Investment Stewardship" Document violate the TCPA.

COUNT I
TENNESSEE CONSUMER PROTECTION ACT
Violations of Tenn. Code Ann. § 47-18-104(a) and (b)(27)

189. Tennessee re-alleges and incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further alleges as follows.

190. As detailed extensively in this complaint, BlackRock has falsely conveyed that certain of its funds do not incorporate ESG considerations. BlackRock has downplayed its activities and its funds' role in aggressively driving the transition to net zero greenhouse gas emissions. BlackRock also has misleadingly represented the current level of country support for and the possibility of achieving such climate-change initiatives—thus deceiving consumers about these initiatives' ties to financial performance, rather than ESG aims.

191. By making express and implied material misrepresentations and omissions about its investment strategies and engagement related to ESG, BlackRock has engaged in deceptive trade practices that are prohibited by the TCPA.

192. These and other representations and omissions detailed in this complaint have the tendency to mislead consumers about the role of the purportedly non-ESG BlackRock funds in promoting ESG.

193. In addition, as detailed extensively in this complaint, BlackRock has overstated the extent to which its ESG aims bear on companies' financial positioning and performance. BlackRock has repeatedly represented that considering ESG factors in these funds creates

purported *financial* benefits to investors. The problem is most acute in the context of BlackRock's ESG funds.

194. Alternatively, if all of BlackRock's actions and commitments regarding net zero by 2050 have really been a smokescreen for taking no real action on that issue, then, in the alternative, BlackRock has misled investors regarding its commitment to net zero by 2050 and its implementation of comprehensive ESG policies across the assets it manages. This misimpression is plainly material to those consumers who seek to invest with companies that act to further particular climate-related priorities.

195. BlackRock's acts and practices concerning the marketing or sale of products and services, as alleged herein, are deceptive to consumers and other persons in Tennessee. *See* Tenn. Code Ann. § 47-18-104(a), (b)(27). Like representations and practices, omissions that are likely to mislead reasonable consumers are also actionable under § 47-18-104(b)(27). *See, e.g.*, *Fayne v. Vincent*, 301 S.W.3d 162, 177 (Tenn. 2009); *State ex rel. Slatery v. HRC Med. Centers, Inc.*, 603 S.W.3d 1, 18 n.19 (Tenn. Ct. App. 2019) ("For the purposes of the TCPA ... the essence of deception is misleading consumers by a merchant's statements, silence, or actions." (citation omitted)).

196. BlackRock's acts and practices concerning the marketing or sale of products and services, as alleged herein, affect the conduct of any trade or commerce, as defined in Tenn. Code Ann. § 47-18-103(24).

197. The services BlackRock marketed and sold as alleged herein constitute "services" as defined in Tenn. Code Ann. § 47-18-103(23) because they fall under the plain and ordinary meaning of the word "services." BlackRock's services include advising funds that retain it as its investment advisor regarding investment stewardship, which includes voting shares and engaging

with portfolio companies. For actively managed funds, BlackRock's services include the foregoing as well as advising funds which securities to include in the fund.

198. The securities that are at issue in this case, including shares in ETF funds, qualify as "goods, services, or property, tangible or intangible, real, personal, or mixed, and other articles, commodities, or things of value wherever situated" under Tenn. Code Ann. § 47-18-103(24).

199. In *Johnson v. John Hancock Funds*, which involved a claim that John Hancock Funds provided faulty investment advice that caused Johnson and others to pay excessive fees and make excessively risky investments, the Tennessee Court of Appeals held that "acts or practices in connection with the marketing or sale of securities are covered by the [TCPA]." 217 S.W.3d 414, 419, 424 (Tenn. Ct. App. 2006). The Tennessee Legislature has not abrogated the State's power to enforce the TCPA as it relates to the marketing or sale of securities under Tenn. Code Ann. §§ 47-18-107 and 47-18-108; rather, it has only limited it in the context of private rights of action. *See* Tenn. Code Ann. § 47-18-109(h).

200. Through their acts, omissions, and misrepresentations, BlackRock has deceived and continues to deceive consumers about how and to what extent ESG considerations play a role in the management of their consumers' money.

201. The above-described acts, omissions, and misrepresentations are material, insofar as they have the capacity to influence—and did in fact influence—reasonable consumers' decisions about whether, and how much, to invest with BlackRock.

202. Each instance of BlackRock's deceptive practices constitutes a separate violation of the TCPA.

PRAYER FOR RELIEF

Plaintiff, the State of Tennessee *ex rel.* Jonathan Skrmetti, Attorney General and Reporter, pursuant to the TCPA, and this Court's equitable powers, prays:

1. That this complaint be filed without cost bond as provided by Tenn. Code Ann. § 20-13-101 and 47-18-116;

2. That process issue and be served upon BlackRock requiring it to appear and answer;

3. That this Court adjudge and decree that BlackRock has engaged in the aforementioned acts or practices that violate the TCPA;

4. That pursuant to Tenn. Code Ann. § 47-18-108(a)(1), (a)(4), and (a)(5), this Court permanently enjoin and restrain BlackRock from engaging in the aforementioned acts or practices which violate the TCPA;

5. That this Court make such orders or render such judgments as may be necessary to restore to consumers and other persons the money or property lost as a result of the alleged violations of law, as provided in Tenn. Code Ann. § 48-18-108(b)(1);

6. That this Court make such orders or render such judgments as may be necessary to disgorge the net-profits and ill-gotten gains BlackRock realized by reason of the alleged violations of law;

7. That this Court order BlackRock to pay a civil penalty of $1,000 to the State of Tennessee for each violation of the TCPA, as provided in Tenn. Code Ann. § 47-18-108(b)(3);

8. That this Court enter judgment against BlackRock and in favor of the State for the reasonable costs and expenses of the investigation and prosecution of this action, including attorneys' fees, costs, and expert and other witness fees, as provided by state law, including Tenn. Code Ann. § 47-18-108(a)(5) and (b)(4);

9. That all costs, including discretionary costs, in this case be taxed against BlackRock;

10. That a jury be empaneled to hear and decide all appropriate matters; and

11. That this Court grant the State such other and further relief as this Court deems just and proper.

Dated: December 18, 2023

Respectfully submitted,

JONATHAN SKRMETTI (BPR #31551)
ATTORNEY GENERAL & REPORTER

BRANDON JAMES SMITH (BPR #037272)
Chief of Staff
STEVEN J. GRIFFIN (BPR #040708)
Senior Counsel for Strategic Litigation and
Assistant Solicitor General
Tennessee Attorney General's Office
P.O. Box 20207
Nashville, TN 37202
(615) 741-3491
Brandon.Smith@ag.tn.gov
Steven.Griffin@ag.tn.gov

Counsel for Plaintiff the State of Tennessee

ADDENDUM A

I. Listing of Current BlackRock Equity ETFs – Non-ESG Funds

a. IVV, iShares Core S&P 500 ETF. BlackRock describes this fund's investment objective as: "The iShares Core S&P 500 ETF seeks to track the investment results of an index composed of large-capitalization U.S. equities."[188]

b. IEFA, iShares Core MSCI EAFE ETF. BlackRock describes this fund's investment objective as: "The iShares Core MSCI EAFE ETF seeks to track the investment results of an index composed of large-, mid- and small-capitalization developed market equities, excluding the U.S. and Canada."[189]

c. IJH, iShares Core S&P Mid-Cap ETF. BlackRock describes this fund's investment objective as: "The iShares Core S&P Mid-Cap ETF seeks to track the investment results of an index composed of mid-capitalization U.S. equities."[190]

d. IWF, iShares Russell 1000 Growth ETF. BlackRock describes this fund's investment objective as: "The iShares Russell 1000 Growth ETF seeks to track the investment results of an index composed of large- and mid-capitalization U.S. equities that exhibit growth characteristics."[191]

e. IEMG, iShares Core MSCI Emerging Markets ETF. BlackRock describes this fund's investment objective as: "The iShares Core MSCI Emerging Markets ETF seeks to track the investment results of an index composed of large-, mid- and small-capitalization emerging market equities."[192]

---

[188] BlackRock, *IVV: iShares Core S&P 500 ETF*, https://perma.cc/M5U8-H46D.
[189] BlackRock, *IEFA: iShares Core MSCI EAFE ETF*, https://perma.cc/N6YJ-ZFF6.
[190] BlackRock, *IJH: iShares Core S&P Mid-Cap ETF*, https://perma.cc/T53D-G538.
[191] BlackRock, *IWF: iShares Russell 1000 Growth ETF*, https://perma.cc/6CW9-VLDL.
[192] BlackRock, *IEMG iShares Core MSCI Emerging Markets ETF*, https://perma.cc/H99Q-U9TU.

f. IJR, iShares Core S&P Small-Cap ETF. BlackRock describes this fund's investment objective as: "The iShares Core S&P Small-Cap ETF seeks to track the investment results of an index composed of small-capitalization U.S. equities."[193]

g. IWM, iShares Russell 2000 ETF. BlackRock describes this fund's investment objective as: "The iShares Russell 2000 ETF seeks to track the investment results of an index composed of small-capitalization U.S. equities."[194]

h. IWD, iShares Russell 1000 Value ETF. BlackRock describes this fund's investment objective as: "The iShares Russell 1000 Value ETF seeks to track the investment results of an index composed of large- and mid-capitalization U.S. equities that exhibit value characteristics."[195]

i. EFA, iShares MSCI EAFE ETF. BlackRock describes this fund's investment objective as: "The iShares MSCI EAFE ETF seeks to track the investment results of an index composed of large- and mid-capitalization developed market equities, excluding the U.S. and Canada."[196]

j. ITOT, iShares Core S&P Total U.S. Stock Market. BlackRock describes this fund's investment objective as: "The iShares Core S&P Total U.S. Stock Market ETF seeks to track the investment results of a broad-based index composed of U.S. equities."[197]

k. IVW, iShares S&P 500 Growth ETF. BlackRock describes this fund's investment objective as: "The iShares S&P 500 Growth ETF seeks to track the investment results

[193] BlackRock, *IJR: iShares Core S&P Small-Cap ETF*, https://perma.cc/KSH7-CBZP.
[194] BlackRock, *IWM: iShares Russell 2000 ETF*, https://perma.cc/7WD6-U3FT.
[195] BlackRock, *IWD: iShares Russell 1000 Value ETF*, https://perma.cc/Z622-SAFV.
[196] BlackRock, *EFA: iShares MSCI EAFE ETF*, https://perma.cc/5VTW-WCY4.
[197] BlackRock, *ITOT: iShares Core S&P Total U.S. Stock Market ETF*, https://perma.cc/2PZU-456V.

of an index composed of large-capitalization U.S. equities that exhibit growth characteristics."[198]

l. QUAL, iShares MSCI USA Quality Factor ETF. BlackRock describes this fund's investment objective as: "The iShares MSCI USA Quality Factor ETF seeks to track the investment results of an index composed of U.S. large- and mid-capitalization stocks with quality characteristics as identified through certain fundamental metrics."[199]

m. IXUS, iShares Core MSCI Total International Stock ETF. BlackRock describes this fund's investment objective as: "The iShares Core MSCI Total International Stock ETF seeks to track the investment results of an index composed of large-, mid- and small-capitalization non-U.S. equities."[200]

n. IWB, iShares Russell 1000 ETF. BlackRock describes this fund's investment objective as: "The iShares Russell 1000 ETF seeks to track the investment results of an index composed of large- and mid-capitalization U.S. equities."[201]

o. USMV, iShares MSCI USA Min Vol Factor ETF. BlackRock describes this fund's investment objective as: "The iShares MSCI USA Min Vol Factor ETF seeks to track the investment results of an index composed of U.S. equities that, in the aggregate, have lower volatility characteristics relative to the broader U.S. equity market."[202]

II. Listing of Current BlackRock Bond ETFs – Non-ESG Funds

---

[198] BlackRock, *IVW: iShares S&P 500 Growth ETF*, https://perma.cc/F3N3-6AYU.
[199] BlackRock, *QUAL: iShares MSCI USA Quality Factor ETF*, https://perma.cc/2RGY-XNQZ.
[200] BlackRock, *IXUS: iShares Core MSCI Total International Stock ETF*, https://perma.cc/9QYL-U3SK.
[201] BlackRock, *IWB: iShares Russell 1000 ETF*, https://perma.cc/V2SR-U5GK.
[202] BlackRock, *USMV: iShares MSCI USA Min Vol Factor ETF*, https://perma.cc/Z6RT-UCDR.

a. AGG, iShares Core U.S. Aggregate Bond ETF. BlackRock describes this fund's investment objective as: "The iShares Core U.S. Aggregate Bond ETF seeks to track the investment results of an index composed of the total U.S. investment-grade bond market."[203]

b. LQD, iShares iBoxx $ Investment Grade Corporate Bond ETF. BlackRock describes this fund's investment objective as: "The iShares iBoxx $ Investment Grade Corporate Bond ETF seeks to track the investment results of an index composed of U.S. dollar-denominated, investment grade corporate bonds."[204]

c. IGSB, iShares 1-5 Year Investment Grade Corporate Bond ETF. BlackRock describes this fund's investment objective as: "The iShares 1-5 Year Investment Grade Corporate Bond ETF seeks to track the investment results of an index composed of U.S. dollar-denominated investment-grade corporate bonds with remaining maturities between one and five years."[205]

d. IUSB, iShares Core Total USD Bond Market ETF. BlackRock describes this fund's investment objective as: "The iShares Core Total USD Bond Market ETF seeks to track the investment results of an index composed of U.S. dollar-denominated bonds that are rated either investment grade or high-yield."[206]

---

203 BlackRock, *AGG: iShares Core U.S. Aggregate Bond ETF*, https://perma.cc/Z7MT-MU4X.
204 BlackRock, *LQD: iShares iBoxx $ Investment Grade Corporate Bond ETF*, https://perma.cc/TDU4-F4HJ.
205 BlackRock, *IGSB: iShares 1-5 Year Investment Grade Corporate Bond ETF*, https://perma.cc/UT64-BSSW.
206 BlackRock, *IUSB: iShares Core Total USD Bond Market ETF*, https://perma.cc/CZ8B-ZTKE.

ADDENDUM B

I. Listing of Current BlackRock Equity ETFs –ESG Funds

a. XVV, iShares ESG Screened S&P 500 ETF. BlackRock describes this fund's investment objective as: "iShares ESG Screened S&P 500 ETF seeks to track the investment results of an index composed of large-capitalization U.S. equities while applying screens for company involvement in controversies and controversial business activities."[207]

b. XJH, iShares ESG Screened S&P Mid-Cap ETF. BlackRock describes this fund's investment objective as: "The iShares ESG Screened S&P Mid-Cap ETF seeks to track the investment results of an index composed of mid-capitalization U.S. equities while applying screens for company involvement in controversies and controversial business activities."[208]

c. XJR, iShares ESG Screened S&P Small-Cap ETF. BlackRock describes this fund's investment objective as: "The iShares ESG Screened S&P Small-Cap ETF seeks to track the investment results of an index composed of small-capitalization U.S. equities while applying screens for company involvement in controversies and controversial business activities."[209]

II. Listing of Current BlackRock Bond ETFs –ESG Funds

a. EAGG, iShares ESG Aware U.S. Aggregate Bond ETF. BlackRock describes this fund's investment objective as: "The iShares ESG Aware U.S. Aggregate Bond ETF (the "Fund") seeks to track the investment results of an index

---

[207] BlackRock, *XVV: iShares ESG Screened S&P 500 ETF*, https://perma.cc/DPM3-6CTM.
[208] BlackRock, *XJH: iShares ESG Screened S&P Mid-Cap ETF*, https://perma.cc/9Q3N-R2NX.
[209] BlackRock, *XJR: iShares ESG Screened S&P Small-Cap ETF*, https://perma.cc/E3GW-MFJE.

composed of U.S. dollar-denominated, investment-grade bonds from issuers generally evaluated for favorable environmental, social and governance practices while seeking to exhibit risk and return characteristics similar to those of the broad U.S. dollar-denominated investment-grade bond market."[210]

b. SUSC, iShares ESG Aware USD Corporate Bond ETF. BlackRock describes this fund's investment objective as: "The iShares ESG Aware USD Corporate Bond ETF seeks to track the investment results of an index composed of U.S. dollar-denominated, investment-grade corporate bonds issued by companies that have positive environmental, social and governance characteristics while seeking to exhibit risk and return characteristics similar to those of the parent index of such index."[211]

c. SUSB, iShares ESG Aware 1-5 Year USD Corporate Bond ETF. BlackRock describes this fund's investment objective as: "The iShares ESG Aware 1-5 Year USD Corporate Bond ETF seeks to track the investment results of an index composed of U.S. dollar-denominated, investment-grade corporate bonds having remaining maturities between one and five years and issued by companies that have positive environmental, social and governance characteristics while seeking to exhibit risk and return characteristics similar to those of the parent index of such index."[212]

d. EUSB, iShares ESG Advanced Total USD Bond Market ETF. BlackRock describes this fund's investment objective as: "The iShares ESG Advanced

[210] BlackRock, *EAGG: iShares ESG Aware U.S. Aggregate Bond ETF*, https://perma.cc/YK34-VKZN.
[211] BlackRock, *SUSC: iShares ESG Aware USD Corporate Bond ETF*, https://perma.cc/GT3B-82BA.
[212] BlackRock, *SUSB: iShares ESG Aware 1-5 Year USD Corporate Bond ETF*, https://perma.cc/S249-NB26.

Total USD Bond Market ETF (the "Fund") seeks to track the investment results of an index composed of U.S. dollar-denominated bonds that are rated either investment-grade or high-yield from issuers with a favorable environmental, social and governance rating as identified by the index provider, while applying extensive screens for involvement in controversial activities."[213]

e. BGRN, iShares USD Green Bond ETF. BlackRock describes this fund's investment objective as: "The iShares USD Green Bond ETF seeks to track the investment results of an index composed of U.S. dollar-denominated investment-grade green bonds that are issued by U.S. and non-U.S. issuers to fund environmental projects."[214]

[213] BlackRock, *EUSB: iShares ESG Advanced Total USD Bond Market ETF*, https://perma.cc/32LR-CPGH.
[214] BlackRock, *BGRN: iShares USD Green Bond ETF*, https://perma.cc/SHD8-VR43.

CERTIFICATE OF MAILING AND/OR DELIVERY

I hereby certify that on December 18, 2023, I caused to be served the foregoing on the following by electronic mail:

Peter Vaughan
BLACKROCK, INC.
50 Hudson Yards
New York, NY 10001
(212) 810-5300
peter.vaughan@blackrock.com

Sean Murphy
MILBANK, LLP
55 Hudson Yards
New York, NY US 10001-2163
(212) 530-5688
smurphy@milbank.com

George Cannellos
MILBANK, LLP
55 Hudson Yards
New York, NY US 10001-2163
(212) 530-5729
gcanellos@milbank.com

Brent Culpepper
MILBANK, LLP
55 Hudson Yards
New York, NY US 10001-2163
(212) 835-7514
bculpepper@milbank.com

I further certify that a courtesy copy of the foregoing was served by electronic mail to:

Andrew Cook
ORRICK, HERRINGTON & SUTCLIFFE LLP
Columbia Center
1152 15th Street, N.W.
Washington, D.C. 20005-1706
(202) 339-8597
Andrew.Cook@orrick.com

BRANDON JAMES SMITH (BPR #037272)